CLERK'S COPY

Vol. II

166

85796
U. S. S. C.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1937

No. 13

UNITED GAS PUBLIC SERVICE COMPANY,
APPELLANT,

vs.

STATE OF TEXAS, MRS. MIRIAM A. FERGUSON,
FORMER GOVERNOR OF TEXAS, ET AL.

APPEAL FROM THE COURT OF CIVIL APPEALS FOR THE THIRD SUPREME JUDICIAL DISTRICT OF THE STATE OF TEXAS

FILED MARCH 12, 1937.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1937

No. 13

UNITED GAS PUBLIC SERVICE COMPANY,
APPELLANT,

vs.

STATE OF TEXAS, MRS. MIRIAM A. FERGUSON,
FORMER GOVERNOR OF TEXAS, ET AL.

APPEAL FROM THE COURT OF CIVIL APPEALS FOR THE THIRD SUPREME JUDICIAL DISTRICT OF THE STATE OF TEXAS

VOL. II

INDEX.

	Original	Print
Original statement of facts—Continued		
Testimony of—Continued		
John P. Kinney	798	737
Leon O. Lewis (recalled)	817	749
Reporter's certificate (omitted in printing)	850-A	
Testimony of Leon O. Lewis (recalled)	851	763
John P. Kinney (recalled)	880	781
Leon O. Lewis (recalled)	927	789
Henry E. Elrod	1096	889
Albert Martin	1259	938
J. O. Walker	1282	948
Louis Hausman	1317	962
Wm. McKendrick (omitted in printing)	1332	
Jack Scales	1342	971
H. M. Irvin	1352	975
Henry E. Elrod (recalled)	1363	980
Hal T. Ellsworth (omitted in printing)	1469	

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C. JULY 1, 1937.

	Original	Print
Original statement of facts—Continued		
Testimony of—Continued		
Albert Martin (recalled)	1475	1033
R. H. Montgomery	1496	1045
A. D. Greene (recalled)	1522	1052
W. W. Stein (recalled)	1530	1054
Leon O. Lewis (recalled)	1535	1057
R. H. Hargrove	1537	1059
J. V. Strange	1542	1059
A. D. Greene (recalled) (omitted in printing)	1576	
H. E. Womack (recalled)	1587	1079
Henry E. Elrod (recalled)	1596	1085
Leon O. Lewis (recalled) (omitted in printing)	1608	
Chas. W. Fowler, Jr.,	1616	1089
John S. Ivy	1634	1093
R. H. Hargrove (recalled)	1658	1099
P. M. Biddison (recalled) (omitted in printing)	1667	
J. A. Phillips	1685	1104
Exhibit 14—Statement of operating statistics and related data, 1933-1934...(omitted in printing)..	1714	
Reporter's certificate .....(omitted in printing)..	1717	
Exhibit "A"—Gas ordinance ...(omitted in printing)..	1719	
Exhibit "B"—Opinion and order of Commission (omitted in printing)	1726	
Plaintiffs' exhibits:		
Exhibit No. 1—Restraining and stay order of Court in cause No. 32, in equity, United Gas Public Service Company vs. Lon A. Smith et al., in the District Court of the United States for the Southern District of Texas, Laredo Division (omitted in printing)	1757	
Exhibit No. 2—Order remanding cause to State court issued in cause No. 466, in equity, The State of Texas et al. vs. United Gas Public Service Company, pending in the District Court of the United States for the Western District of Texas, Austin Division	1766	1109
Recital as to Exhibit No. 3—Opinion and order of Railroad Commission of Texas, dated June 13, 1933, in Gas Utilities Dockets Nos. 49 and 63 (omitted in printing)	1769	
Exhibit No. 4—Statement showing historical cost of fixed capital of Border Gas Company, Texas Border Gas Company, and South Texas Gas Company	1771	1110
Exhibit No. 5—Statement of earnings of Border Gas Company, Texas Border Gas Company and South Texas Gas Company	1774	1111

	Original	Print
Original statement of facts—Continued		
Plaintiffs' exhibits:—Continued		
Exhibit No. 6—Letter written by W. W. Stein to G. R. Page, under date of April 14, 1921, together with attached statement entitled "Border Gas Company, Analysis of Investment" (omitted in printing)	1779	
Exhibit No. 7—Letter written by W. W. Stein to G. R. Page, under date of June 27, 1923, in re: Capital Stock Tax Return, Form 707, 1923, for taxable period ended June 30, 1923 (omitted in printing)	1783	
Exhibit No. 8—Statement of earnings of South Texas Gas Company, Texas Border Gas Company, and United Gas Public Service Company, for years ended June 30, 1929, June 30, 1930, June 30, 1931, July 31, 1932, and December 31, 1933	1786	1115
Exhibit No. 9—Statement showing appraisal of properties serving Laredo, prepared by H. E. Elrod on the basis of prices as of December 31, 1933	1799	1128
Exhibit No. 10—Agreement between South Texas Production Company and South Texas Gas Company, dated April 10, 1928	1974	1130
Exhibit No. 11—Agreement between South Texas Production Company and South Texas Gas Company, dated November 30, 1929	1978	1133
Exhibit No. 12—Statement showing correction made by H. E. Elrod of certain items appearing in Plaintiffs' Exhibit No. 9—(omitted in printing)	1983	
Exhibit No. 13—Certified copy of deed executed by Border Gas Company to South Texas Gas Company, under date of April 9, 1928, conveying certain pipe lines and other properties therein set out	1988	1134
Reporter's certificate.....(omitted in printing)	1999	
Defendant's exhibits:		
Exhibit No. 1—Operating statement, United Gas Public Service Company, Laredo, Texas, for year ended December 31, 1932. (omitted in printing)	2001	
Exhibit No. 2—United Gas System: general office expenses; nature of expenses, and bases for apportionment	2008	1137
Exhibit No. 3—Operating statement, United Gas Public Service Company, Laredo, Texas, for year ended December 31, 1933. (omitted in printing)	2064	
Exhibit No. 4—Operating statement, United Gas Public Service Company, Laredo, Texas: April 1, 1931-March 31, 1932; August 1, 1931-July 31, 1932; November 1, 1931-October 31, 1932; April 1, 1932-March 31, 1933; August 1, 1932-July 31, 1933; November 1, 1932-October 31, 1933 (omitted in printing)	2071	

	Original	Print
Original statement of facts—Continued		
Defendant's exhibits:—Continued		
Exhibit No. 5—Statement entitled "Comparison of Operating Revenues—Laredo, Texas" (omitted in printing)	2109	
Exhibit No. 6—Statement showing application of certain findings of the Railroad Commission to 1932 and 1933.....(omitted in printing)..	2117	
Exhibit No. 7—Agreement between Southern Gas Company and South Texas Gas Company, dated November 1, 1929.....(omitted in printing)..	2122	
Exhibit No. 8—Statement showing returns to Southern Gas Company under contract of November 1, 1929, with South Texas Gas Company (Exhibit 7)	2129	1202
Exhibit No. 9—Inventory and appraisal of the gas gathering transmission, and distribution property of United Gas Public Service Company, used and useful to serve Laredo, as of August 31, 1932 (omitted in printing).....	2140	
Exhibit No. 10—Statement showing general construction expenditures, Laredo, Texas, area (omitted in printing)	2443	
Exhibit No. 11—Statement showing going value of gas properties for service within the city of Laredo, Texas.....(omitted in printing)..	2453	
Exhibit No. 12—Statement of property for service within the city of Laredo, Texas (as of 12-31-'32) (omitted in printing).....	2457	
Reporter's certificate.....(omitted in printing)..	2468	
Agreement as to statement of facts (omitted in printing)	2469	
Judges certificate.....(omitted in printing)..	2471	
Defendant's exhibit 13—Proceedings before Railroad Commission of Texas.....	1	1208
Caption.....(omitted in printing)..	1	
Appearances.....(omitted in printing)..	2	
Colloquy.....(omitted in printing)..	2	
Testimony of A. D. Greene (omitted in printing)..	5	
P. M. Biddison (omitted in printing)	109	
A. D. Greene (recalled).....	141	1208
P. M. Biddison (recalled).....	282	1223
H. E. Womack (omitted in printing)	380	
J. V. Strange	563	1232
H. E. Womack (recalled) (omitted in printing)	663	
A. J. Neff....(omitted in printing)	666	
Certificates of reporters...(omitted in printing)..	1012	
Testimony of Henry E. Elrod.....	1019	1241
J. D. Shaw.....	1154	1260
Henry E. Elrod (recalled).....	1188	1265
John P. Kinney.....	1299	1270
Henry E. Elrod (recalled).....	1333	1275
A. J. Neff.....	1405	1280

	Original	Print
Original statement of facts—Continued		
Defendant's exhibit 13—Proceedings before Railroad Commission of Texas—Continued		
Testimony of—Continued		
J. D. Shaw (recalled) (omitted in printing)	1412	
Leon O. Lewis	1460	1283
J. D. Shaw (recalled) (omitted in printing)	1523	
Leon O. Lewis (recalled)	1531	1299
W. W. Stein	1601	1330
S. W. McGary (omitted in printing)	1614	
W. W. Stein (recalled)	1686	1332
A. D. Greene (omitted in printing)	1717	
M. A. Abernathy	1734	1339
H. E. Womack	1750	1340
Reporters' certificates (omitted in printing)	1759	
Company's exhibits:		
Exhibit No. 1—Texas Border Gas Company and South Texas Gas Company Inventory and Appraisal (omitted in printing)	1762	
Exhibit No. 2—Texas Border Gas Company and South Texas Gas Company, general construction expenditures (omitted in printing)	2059	
Exhibit No. 3—Statement regarding going value	2071	1342
Exhibit No. 4—South Texas Gas Company and Texas Border Gas Company, Laredo, Texas, accounting report, August 1, 1931-July 31, 1932 (omitted in printing)	2081	
Exhibit No. 4-A—Texas Border Gas Company and South Texas Gas Company, analysis of depreciation; percentages on pipe (omitted in printing)	2088	
Exhibit No. 5—Texas Border Gas Company, Laredo, Texas, rate case data, 12 months ended July 31, 1932	2107	1349
Exhibit No. 5-A—South Texas Gas Company and Texas Border Gas Company; adjustments to rate base (omitted in printing)	2117	
Exhibit No. 6—Letter, dated July 6th, 1932, from Albert Martin to W. W. Stein, acknowledging receipt of petition of the Texas Border Gas Company dated June 27th, 1932	2120	1353
Exhibit No. 7—Letter, dated July 12, 1932, from Texas Border Gas Company, signed: W. W. Stein, District Manager, to Mayor and City Council of the City of Laredo, Laredo, Texas. Attached, a statement regarding South Texas Gas Company and Texas Border Gas Company, City of Laredo—operating statement—twelve months ended March 31, 1932	2122	1353

	Original	Print
Original statement of facts—Continued		
Defendant's exhibit 13—Proceedings before Railroad Commission of Texas—Continued		
Company's exhibits:—Continued		
Exhibit No. 8—Photostat copy of contract between Texas Border Gas Company and Nuevo Laredo Gas Company	2126	1356
Exhibit No. 9—Agreement, dated December 31, 1929, between South Texas Gas Company and Compania Mexicana de Gas, S. A. Part handwritten and part typewritten	2138	1358
Exhibit No. 9 (2)—Photostat copy of Amendment, dated January 23, 1932, between South Texas Gas Company and Compania Mexicana de Gas, S. A.	2143	1364
Exhibit No. 10—Photostat copy of agreement, between Southern Gas Company and South Texas Gas Company, dated November 1st, 1929	2148	1366
Exhibit No. 11—South Texas Gas Company and Texas Border Gas Company, Laredo, Texas; accounting report—April 1, 1931-March 31, 1932.....(omitted in printing)..	2157	
Reporter's certificate.....(omitted in printing)..	2163	
City's exhibits:		
Exhibit "A"—Texas Border Gas Company and South Texas Gas Company; appraisal	2165	1369
Exhibit "A" (2)—To correct errors in Jennings-Pescadito transmission line, account loading, haul and string; and account use of price on random lengths of pipe, instead of 34 ft. lengths....(omitted in printing)..	2413	
Exhibit "A" (Supplement 1)—General summary and allocation (omitted in printing)..	2415	
Exhibit "A" (Supplement 2)—General summary and allocation	2417	1372
Exhibit "B"—Statement regarding structural overheads.....(omitted in printing)..	2419	
Exhibit "C"—Tax statement	2426	1372
Exhibit "D"—Statement regarding going value (omitted in printing)	2428	
Exhibit "E"—Border Gas Company, Texas Border Gas Company and South Texas Gas Company; historical cost of fixed capital as shown by company books	2433	1374
Exhibit "F"—Letter, dated Laredo, Texas, June 27, 1923, from W. W. Stein to Mr. G. R. Page, Houston, Texas. In re: capital stock tax return, form 707, 1923, for taxable period ended June 30, 1923	2436	1375

	Original	Print
Original statement of facts—Continued		
Defendant's exhibit 13—Proceedings before Railroad Commission of Texas—Continued		
City's exhibits:—Continued		
Exhibit "G"—Letter, dated April 14, 1921, from W. W. Stein to Mr. G. R. Page, Houston, Texas. In re: income and profits tax return calendar year 1918. Border Gas Company's analysis of investment and balance sheet for December 31, 1910, is attached.....	2438	1376
Exhibit "H"—Border Gas Company, Texas Border Gas Company and South Texas Gas Company, comparative statement of earnings for the seven year period ended December 31, 1931; also chart (blueprinted) showing consolidated gas sales and operating expenses for Border Gas Company, South Texas Gas Company and Texas Border Gas Company..	2442	1378
Exhibit "L"—South Texas Gas Company and Texas Border Gas Company; consolidated statements of earnings from operations within the city limits of Laredo, for the years ended June 30, 1929, 1930, 1931, and July 31, 1932	2449	1381
Reporter's certificate..(omitted in printing)..	2462	
Exhibit "I"—Map showing transmission lines, South Texas Gas Company, used and useful in serving Laredo; February 28, 1931 (omitted in printing)	2464	
Exhibit "J"—Seven blue-print sheets containing data regarding 6-inch main transmission line from Jennings gas field to Pescadito Junction	2466	1397
Exhibit "K"—Map of the City of Laredo, Texas: United Gas System, Houston, Texas. Engineering Department	2473	1404
Exhibit "M"—Map showing transmission and gathering lines, as of December 31, 1931, used in testimony at Laredo hearings and during District Court trial.....	2476	1405
Reporter's certificate.....(omitted in printing)..	2477	
Order extending time within which to docket case.....	2478	1407
Statement of points to be relied upon and designation as to printing record	2482	1407
Designation by appellees of additional parts of record to be printed	2494	1411

JOHN PATRICK KINNEY, a witness for the plaintiff, having been duly sworn, testified as follows:

Direct examination.

Questions by Mr. Lange:

Q. State your name, please.
A. John Patrick Kinney.
Q. Where do you reside?
A. San Antonio, Texas.
Q. What is your occupation?
A. Certified public accountant.
Q. How long have you been in that occupation?
A. About twenty years.
Q. Have you had occasion during the twenty years of that work to make any audits of any utilities properties?
A. Yes, sir.
Q. Can you give us the names of the utility companies that you made audits for, or the cities that you made utility audits for?
[fol. 799] A. Well, I would say about fifty-two cities that I have made audits for that have utilities in connection with them. I made audits for the city of Austin waterworks here a number of years ago, for the San Antonio Water Board, the Southern Light & Utility Company, Dallas, up through the northern section, and down in Mexico for the gas companies and light and power companies down there, and numerous audits of other and smaller utilities, both municipally owned and owned outright.
Q. Are you a member of the auditing firm of F. G. Rodgers & Company?
A. Yes, sir.
Q. When did you first have occasion to begin work in connection with the audit of the books of the South Texas Gas Company and the Border Gas Company?
A. About July, 1931.
Q. What did you do at that time, and how long were you in that first engagement?
A. That first engagement was a question of starting right from the inception of what was known as the Border Gas Company, starting January 1, 1911, and coming down to December 31, 1924; that was the first engagement.

Q. All right.

A. We took then the years of 1925, 1926, and 1927, down to April 10, 1928, and that was as far as my activities went.

[fol. 800] Q. Is Mr. L. O. Lewis also a certified public accountant engaged in that work with you?

A. Yes, sir; with the same firm.

Q. Will you examine this Exhibit 4 that has been introduced, Mr. Kinney?

A. Yes, sir.

Q. Mr. Kinney, when you first began the work in connection with this audit what did you do?

A. The first thing that I had to do was to get hold of records, and I spent considerable time in locating records.

Q. Whom did you get in touch with at the Gas Company?

A. Mr. Robertson, who was then Manager, I believe, of the Laredo unit, and his chief accountant, I think his name was Thorne.

Q. You inquired of them and requested them to give you access to the records and books of the company for the purpose of making this audit?

A. Yes, sir.

Q. All right; what did you do then?

A. Well, I asked for certain records, and they were not produced at that time. Certain records were given me, and then I believe Mr. Robertson, with Mr. Thorne, showed me where the vault was in the Laredo office, showed me where the papers and records were, and told me what I needed to go and get.

Q. What did you do then?

[fol. 801] A. I tried to get the original documents right at the inception of the company.

Q. You are speaking of the——

A. Of the Border Gas Company.

Q. And what documents were furnished to you in connection with that?

A. Well, the old ledgers of the Border Gas Company, they were given to me. They run down for several years; and then certain vouchers, letters, and such as that were handed to me, pertaining to the inception of the Border Gas Company. Some of the papers pertained to the franchise holders previously, I think, Johnson and Reiser.

Q. In connection with those records that were furnished to you by the Company, I will ask you whether this inventory is one?

A. Yes, sir.
Q. Together with the letter accompanying it?
A. Yes, sir; they were both attached.
Q. What is the date of that letter?
A. April 14, 1921.
Q. And the inventory attached to it?
A. December 31, 1910.

Mr. Lange: We desire at this time to introduce this letter and inventory in evidence. It was identified yesterday by Mr. Stein as having been signed by him.

(Thereupon the letter and attached inventory referred [fol. 802] to above were offered in evidence, and marked Plaintiff's Exhibit No. 6, and same is attached hereto and made a part of this Statement of Facts, and appears in Volume of Exhibits III, page 1779.)

Q. Will you look at this letter, Mr. Kinney, and the inventory attached to it?
A. Yes, sir.
Q. How did you then proceed in connection with this matter? What does the letter represent? First, what does it say?
A. The letter is written by Mr. Stein to Mr. G. R. Page, Houston, Texas, and it is outlining the analysis of the investment.

Mr. Lange: I will just read it. It is dated at Laredo, Texas, April 14, 1921. (Reads as follows:)

"Mr. G. R. Page, Houston, Texas.

DEAR SIR:

The enclosed copy of trial balance and copy of analysis of investment as of December 31, 1910, covers our record of property acquired by the old company prior to January 1, 1911 when the present accounts of Border Gas Company were begun. All vouchers and other records, I understand, were sent to Houston when the original plant was completed and turned over to Border Gas Compsny.

From information I have been able to obtain all of this property was purchased by the old company during the calendar year 1910, all of the construction work having been begun and completed during that year.

[fol. 803] Trusting that this will enable you to prepare the statement as outlined in your letter, I am

Very truly yours, (Signed) W. W. Stein."

Mr. Lange: Now, the enclosed trial balance referred to in that letter reads as follows (reads):

"Border Gas Company

Analysis of Investment

Statement, December 31, 1910

Real Estate				150.00
Rights of Way				10.93
Buildings				14.72
Tools				34.13
Fittings				17,364.05
Telephone Line from Reiser to Laredo				1,601.95
Labor, Teaming, Freight & Miscellaneous				31,718.83
Gas Receivers and Regulators				2,382.20
Gas Meters				5,791.00
Office Furniture				332.68
Horses and Wagons				225.00
Automobile				1,535.00
Line Pipe Size	Length Feet	Inches		
1"	3,039'	9"	130.49	
1¼"	3,034'	4"	177.04	
2"	28,905'	8"	2,684.66	
[fol. 804]				
3"	34,562'	2"	5,527.21	
4"	89,203'	4"	22,316.43	
6"	36,672'	4"	13,032.26	
8"	128,649'	2"	71,838.25	
10¾"	2,213'	4"	1,862.03	
12¾"	155'	11"	163.64	
16"	150'	7"	208.60	
				117,940.61
Total Investment				179,101.10

Border Gas Company

Balance Sheet, December 31, 1910

Investment	179,101.10	
Gas Ledger	648.23	
Warehouse Account	923.94	
Cash—Milmo National Bank	2,896.69	
Petty Cash	69.23	
Southern Trust Company		182,990.96
Gas Earnings		516.58
Producers Oil Company		131.65
	183,639.19	183,639.19

[fol. 805] Q. Mr. Kinney, in connection with this inventory what original books of entry did you find as beginning or opening entries of the Border Gas Company?

A. I found Journal Voucher Number 1, which debited Plant and Equipment $550,000.00, and credited Capital Stock $300,000.00 and Surplus $250,000.00. That was the only opening entry on the Border Gas Company's books.

Q. That was the only one of their original books?

A. Yes, sir.

Q. That you found among their records?

A. Yes, sir.

Q. How did you then proceed in making your opening entry of this audit—your beginning point of this audit?

A. Naturally, I wanted to know what the Plant and Equipment were, $550,000.00. I wanted an analysis of it, to see what the stock was issued for and the surplus. And after considerable looking and digging around in the vaults I ran across some inventory sheets—tax returns made to the Government, tax claims, and such as that, and began to unearth some of the individual detailed analysis sheets, which I tried to tie back into the opening entry. Not being able to do that, for the tax returns disclosed the actual amounts on which depreciations were being taken by the Company there at that time was taken on the basis of $166,996.68, I believe, and the records showed that the balance of the $383,000.00 was the value of intangibles, good [fol. 806] will, and such as that, making up the $550,000.00 for which the opening journal entry was set up.

Q. How did you finally arrive at the beginning point of $166,996.68, as shown at the top of page 2 of Exhibit 4?

A. Well, that was the basis as shown here on this trial balance and analysis of investment, as they call it, after a credit that went to Materials and Supplies amounting to $12,104.42 that was taken off of this investment of $179,-101.10. That made the $166,996.68, which was further verified by actual Journal vouchers, on which the Company was computing their depreciation when they did start computing it regularly.

Q. How later in years did the Company use that $166,-996.68 in connection with the computation of their depreciation?

A. They were using that up to the time I stopped.

Q. What year was that?

A. 1928. That ran through the yearly journal entries in setting up their depreciation.

Q. In connection with those original records furnished you at the time by the Manager of the Company, I will ask you whether this is another letter that was among those?

A. Yes, sir; that was attached to a capital stock tax return.

Mr. Lange: We desire at this time to introduce this letter in evidence. It was also identified by Mr. Stein.

Mr. Coates: Do you have the statement of Sinking Fund and Depreciation account to which this letter refers?

Q. Do you have that, Mr. Kinney—the statement of Sink-
[fol. 807] ing Fund and Depreciation as of December 31, 1921?

A. No, sir; that particular letter was attached to a copy of a capital stock tax return.

Mr. Stout: Do you all have it?

Mr. Coates: Well, we haven't got it here.

Mr. Lange: This letter is dated Laredo, Texas, June 26, 1923, "Capital Stock Tax Return, Form 707, 1923, for taxable period ended June 30, 1923," and reads (reads):

"Mr. G. R. Page, Houston, Texas.

DEAR SIR:

Copy of letter received from the office of the Commissioner of Internal Revenue requesting additional information in re above return, is enclosed.

A statement of Sinking Fund and Depreciation account of December 31, 1921 is also enclosed. Kindly advise explanation to be made regarding difference between book value and fair value shown on return.

The following explanation made to the Commissioner Feb. 25, 1921, regarding the difference in 'Plant Account' on our 1920 and 1921 return will probably suffice to explain this account satisfactorily: 'it represents property acquired at the time of organization of the Company in 1911 and included tangible property that originally cost $166,966.68, as well as franchise, good will, etc., of a going concern. It is the opinion of the officers of the Company that [fol. 808] the amount shown in the 'Fair Value' column of our Capital Stock Tax Return was the true value of the property on the date reported.''

Kindly advise in regard to the above, and oblige.

Yours very truly, (Signed) W. W. Stein.''

(Copy of the above letter is attached hereto as Plaintiff's Exhibit No. 7, and made a part of this Statement of Facts, and appears in Volume of Exhibits III, page 1783.)

Mr. Coates: Was there among those records that you dug up this capital stock return to which this letter refers?

A. If I am not mistaken there was a copy of a capital stock tax return attached to that letter. Of course, the original was naturally given to Washington.

Q. Mr. Kinney, you stated that that item of $166,996.68 was reflected on the Company's books in the computation of their depreciation account as late as 1928?

A. Yes, sir; after the first five years. No depreciation showed up for the first five years at all.

Q. And after that it appeared how?

A. It appeared through yearly Journal vouchers setting up the depreciation, in which they deducted this three hundred odd thousand dollars, leaving this other to compute depreciation on.

[fol. 809] Q. Turn to this Exhibit No. 4, page 2, beginning at the top left of the page, ''Border Gas Company, 1910, Construction''—what is this opening entry, $166,996.68, as it appears on this subject?

A. That reflects the original investment on the books.

Q. Of this property?

A. Of properties taken over from the franchise holders.

Q. As of what date?

A. As of January 1, 1911.

Q. And the next column to the right, "Retirements", what does that reflect?

A. That just reflects credits into various equipment accounts during the years in which they are shown—credits out to that account.

Q. And the next column "Net Additions"?

A. That is net additions for each year.

Q. And "Accumulated Additions"?

A. That is the total at the end of each year.

Q. And each of those columns is carried down from January 1, 1911 to April 10, 1928?

A. Yes, sir.

Q. Do those items correctly reflect the Company's records during those periods?

A. These are taken from the Company's records.

Q. Following that appears this statement "Total Book Cost of Properties Transferred to South Texas Gas Company—that is as of April 10, 1928?

A. Yes.

[fol. 810] Q. Where does your total book cost of those properties as of that date appear in the exhibit?

A. In the "Accumulated Addition" column.

Q. What figure is represented there?

A. That "Accumulated Additions".

Q. That is the figure $1,006,512.13?

A. Yes, sir.

Q. The items to the right under the heading "Depreciation per Books", in four columns, do those reflect the actual figures as they appear on the Company's books?

A. Yes, sir.

Q. And the total under "Provision for Depreciation Charged to Operations" is $634,604.34, that is as of February 10, 1928?

A. April 10, 1928.

Q. And the "Accumulated Depreciation per Company Books" as of April 10, 1928 is $531,355.71?

A. Yes, sir.

Q. The figures appearing to the right in the two columns, they were not prepared by you and do not reflect any book entries, do they?

A. No, sir.

Q. Those were calculated by Mr. Lewis?

A. Yes, sir.

Q. And after you had made your audit of the Company's books and records from the beginning period of January 1, 1911 down to April 10, 1928, Mr. Lewis carried on from there and completed the audit, is that correct?

A. Yes, sir.

[fol. 811] Q. And how much time did you put in on that portion of the audit, approximately?

A. I would say, myself and assistants, some sixty days probably. I could not recall the exact number of days; but approximately about sixty days with myself and one or two assistants.

Q. I believe you stated that you have had twenty years accounting experience?

A. Yes, sir.

Q. And as a certified public accountant, how long?

A. In Texas for the last year or so.

Q. And this work after Mr. Lewis had computed the period down to October 21, 1932, and continuing down to December 31, 1933, you did not have occasion to work with him on any of the succeeding periods after April 10, 1928?

A. After April 10, 1928 I had nothing whatsoever to do with the audit.

Mr. Lange: I think that is all.

Mr. Coates: We will cross examine him in the morning when we have had a chance to look this over.

Mr. Lange: This Exhibit 5, which was introduced before recess this afternoon, part of this was prepared by this witness also.

Mr. Coates: We renew our objection to this exhibit. Does the Court make the same ruling to our objection?

The Court: Yes, sir.

Q. Mr. Kinney, in connection with your work of auditing the books of the Border Gas Company, turn to page 2 of Exhibit 5.

[fol. 812] Mr. Coates: Now, I am assuming that our objection goes to all testimony of every kind with respect to the matters therein contained.

The Court: All right.

Mr. Coates: Note our exception.

Q. Mr. Kinney, just tell us what this exhibit represents.

A. It just represents the revenues and operating ex-

penses from January 1, 1911 through down to December 31, 1924 of the Border Gas Company, as shown by their records at Laredo.

Q. Does this reflect a part of the audit made by you?

A. Yes, sir.

Q. And turn to page 2 of that exhibit: The first classification is Operating Revenues, reflecting gas earnings (net), warehouse earnings, and other operating revenues, and total operating revenues, for the first period, January 1, 1911, to June 30, 1912. What does the figure $70,023.75 represent?

A. Represents the Earnings as shown by the Company's ledger revenue accounts.

Q. That is the total earnings for that year ending June 30, 1912?

A. That was a little more than a year; it was from January 1, 1911 to June 30, 1912. They did not seem to close their books regularly; sometimes in the middle of the year, and sometimes at the end of the year, and sometimes skip, first one way and then the other—a short of haphazard way of keeping these records at that time.

[fol. 813] Q. The next year, immediately following, you had fiscal years ending regularly on June 30, 1913, June 30, 1914, June 30, 1915, June 30, 1916, June 30, 1917, June 30, 1918, and June 30, 1919?

A. Yes, sir.

Q. And immediately below the Operating Revenues you have a classification of Operating Expenses. What does that represent?

A. That represents the classification of Operating Expenses as used by the Company and their records at Laredo.

Q. For each of the years that you have operating revenues?

A. That we have shown.

Q. In other words, for the period beginning January 1, 1911 to June 30, 1912 you have all Operating Revenues, and you apply against that the operating Expenses for the same period?

A. Yes, sir.

Q. What is the Net Return for that period before providing for Depreciation and Income Tax?

A. $46,185.90.

Q. Then the Net Return for the fiscal year ending June 30, 1913?

A. $43,611.35.

Q. For 1914?

A. $31,036.40.

Mr. Coates: Are each of these figures before providing for depreciation and income tax?

A. Before providing for depreciation and income tax.

[fol. 814] Q. In 1915?

A. $33,114.32.

Q. In 1916?

A. $10,829.31.

Q. And in 1917?

A. $19,449.76.

Q. In 1918?

A. $49,562.05.

Q. 1919?

A. $59,460.36.

Q. Then you reflect the period beginning July 1, 1919, to December 31, 1919—that is less than a year.

A. They went on a calendar year basis then.

Q. And the net returns for that period is how much?

A. $30,724.14.

Q. And then after that you computed it on the basis of calendar years?

A. Yes, sir.

Q. For the years 1920, 1921, 1922, 1923, and 1924?

A. Yes, sir.

Q. The net returns for the calendar year 1920 is what?

A. $96,721.15.

Q. And 1921?

A. $92,399.77.

Q. And 1922?

A. $94,270.04.

[fol. 815] Q. And 1923?

A. $79,616.68.

Q. And 1924?

A. $117,588.74.

Q. Each of those net returns represents the net returns for the particular period as you have it directly applied to operating revenues for that period?

A. Yes, sir.

Q. That is, the operating expenses are directly applied to the revenues and leave you that net return?

A. Yes, sir.

Q. Turn to page 1 of that exhibit, Mr. Kinney, and——

Mr. Coates: The Court understands that all our objections—our objection goes to all this testimony?

The Court: Yes, sir.

Q. Up to what portion of the auditing period did you compute these figures from the Company's books?

A. Up to April 10, 1928.

Q. Now, you have the operating revenues, the operating expenses, and the net returns, first, for the years 1925, 1926, and 1927. Are those calendar years?

A. Calendar years, yes.

Q. For the year 1925 what is the net return?

A. $158,912.60.

Q. And for 1926?

A. $190,577.22.

[fol. 816] Q. And 1927?

A. $177,785.89.

Q. Now, at April 10, 1928, was that the time the Border Gas Company was dissolved and the two companies—the Texas Border and the South Texas Gas Company were created?

A. As far as I know, yes.

Q. Does your auditing work include that period from April 10, 1928, to December 31, 1928?

A. No, sir, Mr. Lewis——

Q. Mr. Lewis computed that?

A. —handled part of that.

Q. Then you did not proceed any further on that work beyond the 1927 period?

A. No, not for full years, no.

Q. And those figures reflect figures taken from the Company's books and records?

A. Yes, sir, without a detailed audit.

* * * * * * *

[fol. 817] Leon O. Lewis, a witness for plaintiffs, resumed his testimony and testified as follows:

Direct examination:

* * * * * * *

[fol. 818] Q. Now, the three periods of 1929, 1930, 1931,—are those computed on the calendar basis?

A. Yes, sir.

Q. The calendar year basis?

A. Yes, sir.

Q. And for the year 1929 what does the net return show?

A. $200,776.84.

Q. 1930?

A. $212,949.96.

[fol. 819] Q. And 1931?

A. $136,962.11.

Q. And the figures appearing in this exhibit reflect computations taken from the actual books and records of the Company?

A. Yes; except that the operations on the Monterrey line are eliminated on this exhibit.

Q. As shown in the foot-note?

A. Yes, sir. That Monterrey line started in full operations about the first of the year 1930; there were a little sales in 1929, and they are eliminated; so that the statement will be comparative all the way through.

Q. Well, Mr. Lewis, you stated that in connection with your work in making this audit for the City of Laredo you made supplemental audits bringing the audit periods finally down to and through December 31, 1933?

A. That is correct.

Q. Did you, in connection with the making of that audit over the period, prepare an exhibit?

A. Yes, sir.

Q. Will you examine that? (Counsel hands document to witness.)

Mr. Lange: We desire to introduce this in evidence, if the Court please.

Mr. Coates: Now, at this time we object to that part of the exhibit—it is the number of pages relating to the years [fol. 820] 1929, 1930, and 1931, for the same reason, and

for all of the reasons for which we heretofore, objected to Plaintiffs' Exhibit No. 5, dealing with prior years and not dealing with periods as to which this rate issue here relates, and as being too remote therefrom, and as attempting to have operating results in prior periods support a confiscatory rate for the present and future; and for each and all of the reasons for which we objected to the introduced in evidence of the Commission's opinion and order dated June 13, 1933.

The Court: I understand that you are not making the objection to the period for the years ending in 1932 and 1933?

Mr. Coates: I haven't thus far made any objection to that because I don't know how those operating statements were made.

The Court: Very well; for the present I will overrule the objection.

Mr. Coates: Note our exception.

Q. Will you identify the exhibit, please, Mr. Lewis?
A. Yes, I prepared this.

The Court: Well, one qualification, and that is he prepared it and prepared it from the books of the Company, and it is correct.

Mr. Lange: Yes; I will qualify it to that extent.

Mr. Coates: And we will make our objection after we [fol. 821] have had a reasonable time to see it and after we have examined it.

(Thereupon the document above referred to was marked as Plaintiffs' Exhibit No. 8. This exhibit appears in Volume of Exhibits III, page 1786.)

A. What is this exhibit number?

Q. No. 8—Plaintiffs' Exhibit No. 8. Mr. Lewis, this exhibit was prepared by you in connection with the making of this audit for the City of Laredo?

A. Yes, sir.

Q. From the books and records of the South Texas Gas Company, the Texas Border Gas Company, and the United Gas Public Service Company?

A. Yes, sir.

Q. Turn to page 1 of the exhibit, Mr. Lewis. Please explain the nature of the ——

Mr. Coates: At this time we object to the entire exhibit, and will, if we may, complete our bill later.

The Court: All right.

Mr. Coates: Note our exception.

Q. Mr. Lewis, the matters appearing on page 1 of the exhibit correctly reflect the records of these three commissions on which you made the audit, for the periods stated therein?

A. Page 1 is a statement showing the earnings from op-
[fol. 822] erations within the city limits of Laredo, and necessarily certain allocations have been made to the book figures in arriving at those shown in this exhibit.

Q. And with those allocations made the figures on that page correctly reflect the records?

A. In my opinion, they do.

Q. Now, turning first to the first classification of operating revenues, what does that item represent?

A. Operating revenues in its general terms includes all revenues of the Company from its operations.

Q. Gas, as well as——

A. From the sale of gas and reconnect charges, or any other operations they might have.

Q. That page 1 shows the operating revenues for what periods of time?

A. For the year ended June 30, 1929, the year ended June 30, 1930, the year ended June 30, 1931, the year ended July 31, 1932, and the year ended December 31, 1933.

Q. Now, I will ask you first what is the beginning of the corporate life of the South Texas Gas Company and the Texas Border Gas Company—isn't it April 28, 1928?

A. I am not sure that that is the date of the beginning of their corporate life; that is the date upon which they took over the old Border Gas Company.

Q. And this the first operating period beings June 30, 1928, doesn't it?

[fol. 823] A. Yes, sir.

Q. Within probably two months from the beginning of the existence of those two companies?

A. Well, the two companies took over the Border Gas Company on April 10th, and this statement starts on July 1st. That would be a little over two months.

Q. About two and a fraction months?

A. Yes, sir, a little over two months.

Q. And this period on down through to December 31, 1933?

A. That is the last period.

Q. Now, what are the operating revenues for the first period represented by the year—for the year ended June 30, 1929?

A. $290,807.62.

Q. And below you have listed the operating expenses during that same period?

A. Yes, sir.

Q. And below that the net return before depreciation and income taxes for the same period?

A. Yes, sir, that is correct.

Q. And you proceeded in that way for each of the periods appearing on that page?

A. Yes, sir.

Q. Now, for the year ended June 30, 1929, what does this net return show?

[fol. 824] A. The net return, before providing for depreciation and income taxes, is $149,452.24.

Q. And for the year ended June 30th, 1930?

A. $162,331.42.

Mr. Coates: It is understood our objection goes to all this?

The Court: Yes, sir.

Q. And for the year ended June 30, 1931.

A. $129,347—and, I believe that is sixty-six cents.

Q. Yes, sixty-six cents.

A. My copy isn't clear.

Q. Now, Mr. Lewis, the next period is for the year ended July 31, 1932. Why was the period ending July 31, 1932, chosen instead of just continuing the twelve month period?

A. At the time the case was——

Q. You mean the hearing before the Railroad Commission?

A. Yes. It was prepared for the hearing before the Commission, and that was the latest possible date that we could get the figures at that time.

Q. And that is why that period was chosen?

A. Yes.

Q. And that shows a net return for that period of how much?

A. $80,308.47.

Mr. Coates: Are you in each case referring to before depreciation and income tax?

[fol. 825] Mr. Lange: Yes, sir.

Q. And the last period covers the period of operations of the United Gas Public Service Company for the year ended December 31, 1933. Now, when was it that the United Gas Public Service Company took over these properties?

A. On October 31, 1932.

Q. And what does the net return for the last period show?

A. Before depreciation and income taxes, $65,524.16.

Q. Now, Mr. Lewis, please explain the supporting statement appearing on pages—beginning on page 2 of the exhibit,—what does the statement on page 2 reflect?

A. Page — reflects the total earnings of the South Texas Gas Company for the year ended June 30, 1929, making the operating revenues and expenses of the South Texas Gas Company and allocating them as between the other towns and Laredo, in the city and outside of the city, to arrive at the net figures included in the exhibit—page 1 of the exhibit.

Q. In other words, that sets forth the earnings of the South Texas alone, allocated to Laredo?

A. Yes.

Q. For the period ended June 30, 1929?

A. You will find a similar statement on page 6 of the exhibit for Texas Border Gas Company for the same period.

Q. And then on page 3 of the exhibit, does that reflect a statement of the earnings of the South Texas Gas Company [fol. 826] for the next period ended June 30, 1930?

A. Yes.

Q. Similarly, as the previous one?

A. That is correct.

Q. Where does the statement of the Texas Border Gas Company for the same period appear?

A. On page 7.

Q. And on page 4 of the exhibit, does that reflect a statement of the—an operating statement of the South Texas Gas Company for the year ended June 30, 1931?

A. That is correct.

Q. And the statement for the same period of the Texas Border Gas Company appears on page 8?

A. That is correct.

Q. And on page 5 of the exhibit, that reflects a statement

of the operations of the South Texas Gas Company for the year ended July 31, 1932?

A. Yes, sir.

Q. And of the Texas Border Gas Company for the same period the operations are reflected on page 9?

A. Yes, sir.

Q. Now, Mr. Lewis what do the items appearing on page 10 show?

A. Page 10 is a summary of items allocated to Laredo in the preceding exhibits upon which I was unable to make or I was unable to get detailed verification or items which in [fol. 827] rate controversies have been questioned as to their propriety in rate controversies, and I have included those items in my preceding items, and have set them out here for the information of anyone reading the exhibit.

Q. That is for reference to operations within the city limits of Laredo?

A. The amounts shown on page 10 over the net amounts allocated to the city of Laredo in the preceding exhibits.

Q. What do the figures on page 11 reflect?

A. Page 11 is in support of—pages 11 and 12 support the items summarized on page 10; page 11 showing in detail the questionable items in the operating statements of the South Texas Gas Company, the total and the amounts allocated to Laredo; and page 12 shows the same items contained in the Texas Border Gas Company's statements, both in total and the amount allocated to Laredo; pages 11 and 12 are summarized for convenience on page 10.

Mr. Lange: Have you the Exhibits 2 and 3 there?

The Court: Gentlemen, we will take a minute or two while they look for those papers.

(Recess.)

[fol. 828] Q. Mr. Lewis, turn to Exhibit 8, page 1, the item of Gas Purchases. Those were computed at the actual gas purchase figures as represented by the Company's books?

A. For each year.

Q. For each of the years? For the year 1929?

A. No.

Q. What adjustments did you make? Explain them.

A. Those first three periods—well, the first four periods show the gas at 5 cents a thousand cubic feet. During the first three periods, that is June 30, 1929, June 30, 1930, and

June 30, 1931, those purchases were entered on the Company books at 8 cents a thousand for industrial gas and 13 cents a thousand cubic feet for domestic gas; but there was an amended contract in December, 1929, amending the prior contract, that all gas billed from the South Texas Production Company was to be billed at 5 cents a thousand cubic feet; and while the Company continued billing under the old contract of 8 cents and 13 cents, their books were later adjusted to a basis of 5 cents a thousand cubic feet; so I adjusted the first three periods to 5 cents a thousand cubic feet. During the year ending July 31, 1932 the gas was actually billed at 5 cents, and that was the rate that I used. For the year ending December 31, 1933, I have set up the Gas Purchases at the actual purchase price, as shown by the books for the Laredo line, and have allocated to the city limits of Laredo the proportionate part of that total Gas Purchases for the Laredo line which the deliveries to the [fol. 829] City limits of Laredo bear to the total.

Q. In connection with the item Gas Purchases for the period ending December 31, 1933, do you know from what wells the gas was taken and flowed to Laredo during that period? Have you the names of the wells?

A. Yes, sir; I think I have. Do you want the names of the wells?

Q. Yes, and the volume of gas from each that flowed to Laredo.

A. I have here the analysis of Gas Purchases of gas delivered to the Laredo lines.

Q. By wells?

A. That gas is delivered into the Laredo lines and delivered to points along the lines—Aguilares, Oilton, Mirando City, and Laredo. For the year ended December 31, 1933, the gas delivered to the Laredo lines was purchased from—I will list them: The Southern Gas Utilities' A. C. de la Garza Number 1, pressure base 2 pounds 14.7, 76,878 M. C. F.; the Southern Gas Utilities Charles Webster Number 1, on a pressure base of 2 pounds 14.4, 35,154 M. C. F.; Snowden-McSweeney A. C. de la Garza Number 2, on a pressure base of 2 pounds 14.4, 70,079 M. C. F.; Foster-Barnsley A. C. de la Garza Number 2, on pressure base of 2 pounds 14.4, 69,843 M. C. F.

Q. That M. C. F. means thousand cubic feet?

A. Yes, sir. George S. Marshall's Charles Webster Num-

ber 1, on pressure base of 2 pounds 14.4, 54,865 M. C. F.; Associated Oil Company's Charles Webster F-1, on pressure [fol. 830] base of 2 pounds 14.4, 53,783 M. C. F.; Washington, Texas, Oil Company's Foster Barnsley Number 1, on pressure base of 2 pounds 14.4, 58,804 M. C. F.; E. A. Sterling A. C. de la Garza No. 1, at 2 pounds 14.7, 56,540 M. C. F.; E. A. Sterling Company, Inc. A. C. de la Garza Number 2, on a pressure base of 2 pounds 14.7, 24,418 M. C. F.; Then there was delivered at Pescadito Junction from the Jennings-Pescadito transmission line on a pressure base of 2 pounds 14.7, 27,431 M. C. F. That is the total gas delivered to the Laredo lines as per the Company's invoices.

Q. Did that include the well known as the Jennings Number 10?

A. The Jennings No. 10 deliveries would not be directly to the Laredo line.

Q. Have you the total that was taken into the line from the Jennings No. 10 for the twelve months period ending December 31, 1933?

A. Jennings No. 10 was delivered to the Monterrey line—Monterrey line is the term used on the Company's books—on a pressure base of 2 pounds 14.4, there was delivered 428,513 M. C. F.

Q. That is a company owned well, isn't it—an affiliated company owned well?

A. That gas from the Jennings No. 10 was purchased from the United Production Corporation; I suppose they own the well.

Q. At what price?

A. At 4 cents per thousand.

[fol. 831] Q. And how much of that gas flowed towards Laredo?

A. I couldn't say how much of that particular gas. There was delivered from the Monterrey lines to the Laredo lines at Pescadito Junction 27,431 M. C. F. That gas might have come from the Jennings No. 10 or it might have come from some other well in the Jennings area.

Q. Mr. Lewis, in your statement of Operating Expenses, as they appear on page 1 of the Exhibit, have you included any operating charge for pipe line rental?

A. I have not.

Q. Why? Explain why you have not included in that item and allocated any part of it to Laredo as an Operating Expense?

A. That pipe line rental is——

Q. Where is that pipe line located?

A. According to my understanding the pipe line rental is paid to the Southern Gas Company on this section of line from Jennings Junction to Jim Hogg Junction, and from analysis of the gas purchases and deliveries for the year, there was sufficient gas produced from the west side of the Junction that made it unnecessary for any gas to flow through that line——

. . . . . .

[fol. 832] Q. Mr. Lewis, have you included in the Operating Expenses reflected on page 1 for any of the periods any item of gathering charge?

Mr. Coates: Page 1 of what?

Q. Of this same Exhibit 8.

A. I have included in this exhibit portions of gathering field expenses, but I have not included any part of the one cent gathering charge paid to the Southern Gas Company in the Carolina-Tex. field.

Q. Why?

A. That gathering charge—there are several reasons why I didn't include it. In the first instance, that gathering charge did not go into effect, either directly or indirectly, until after the Monterrey or the Jennings-Roma line was built, so that it appeared that at least one of the reasons why that gathering charge was necessary was so that the gas that had formerly been going to Laredo might go down the Mexico line, so that I considered that charge of one cent——

Mr. Coates: We object to an accountant testifying with respect to matters of operation.

[fol. 833] The Court: He is simply telling his reasons why he didn't put the one cent in there.

Mr. Coates: And we object to it further because this testimony in this case is for the purpose apparently of impeaching the Commission's order, on which these plaintiffs are suing; and at this time, the defendant objects and excepts to any evidence, or any efforts by the plaintiffs, tending or seeking to vary the findings made by the Commission in its opinion or order, or to impeach, vary, repudi-

ate, or escape from the findings there made by the Commission, for the following reasons: It is an effort to repudiate and impeach the official acts of the Commission, which the plaintiffs are here seeking to enforce. Two, the legal representatives of the Commission, the Commission, and all plaintiffs herein, are bound by the Commission's findings and orders, which they cannot now seek to set aside, but must seek to enforce, because in their pleadings the plaintiffs have set up the order of the Commission as the basis for their suit, alleging its justness and fairness, and declaring on it as the basis for their suit, and making it a part of, and have incorporated it in their petition, and have therefore admitted the correctness and fairness of what they now seek to vary, repudiate, impeach, or escape from, and their admission is binding on them and is a judicial admission. For the further reason that they have waived any right to impeach, repudiate, vary, or escape [fol. 834] from any finding of the Commission in its efforts to enforce it here. For the further reason that they are estopped by their efforts and allegations concerning it, and their declaration on it, from impeaching, varying, repudiating, or escaping the opinion and order, or any specific finding or part thereof. We object to this testimony for each and all of the above reasons.

The Court: The objections are overruled.

Mr. Coates: Note our exception.

Q. Go ahead and make your complete statement.

A. I have forgotten what I said.

Q. The Reporter will read it to you.

(Thereupon the Reporter read the witness's answer as follows: "A. That gathering charge—there are several reasons why I didn't include it. In the first instance, that gathering charge did not go into effect, either directly or indirectly, until after the Monterrey or the Jennings-Roma line was built, so that it appeared that at least one of the reasons why that gathering charge was necessary was so that the gas that had formerly been going to Laredo might go down the Mexico line, so that I considered that charge of one cent——")

A. —was brought about, at least partially by the construction of the Jennings-Roma line.

Mr. Coates: It is understood our objection goes to all this testimony?

The Court: Yes, sir.

A. Another reason that I excluded the gathering charge in all my exhibits is that the contract under which it is [fol. 835] charged was made with an affiliated company, and was therefore subject to some question.

Mr. Coates: We object to that further because it is a legal conclusion of this accounting question.

A. He asked me for my reasons why I got it out.

The Court: You are giving the reasons that occur to your mind; you are not trying to state legal reasons?

A. No, sir.

The Court: The objection is overruled.

Mr. Coates: Note our exception.

A. There were also some other facts in connection with that which made me somewhat doubt- whether or not it was a proper charge. For sometime after the contract was entered into between the South Texas Gas Company and the Southern Gas Company, providing for gas deliveries at 5 cents on the South Texas controlled wells, and 6 cents on some others, the Southern Gas Company billed gas direct to the South Texas Gas Company at either 5 or 6 cents per thousand cubic feet. At the same time the South Texas Production Company, another affiliated company, was billing gas in the same field at 8 cents and 13 cents per thousand cubic feet. After the South Texas Southern Gas Company contract providing for 5 and 6 cent gas came into effect, the Southern Gas Company delivers, and the South Texas Gas Company were billed direct at 5 and 6 cents, until February, 1931, when the South Texas [fol. 836] Gas Company was transferred from the Laredo Division to the San Antonio for accounting purposes. Beginning at that time, the Southern Gas Company stopped billing gas direct to the South Texas Gas Company, and began billing it through the South Texas Production Company at increased rates up to 8 cents per thousand cubic feet, and in addition to that, charged the one cent gathering charge. All of those circumstances influenced me in

eliminating the gathering charge. There was also a clause in the Southern Gas Company-South Texas Gas Company contract which caused me to make the elimination, and that was the paragraph that provides that the South Texas Gas Company should pay the operating costs of the transmission lines belonging to the Southern Gas Company, which it was using.

Mr. Coates: Transmission?

A. The gathering lines. If I remember correctly, it has been a long time since I have seen that contract. It has been introduced here, hasn't it?

Mr. Bobbitt: Yes, sir, that is the contract we have asked for, and which I understood they were going to furnish.

A. I believe it was introduced yesterday. Let me see a copy of it.

Mr. Coates: There has been one copy introduced.

A. I haven't seen a copy of it in two or three years, Mr. Coates.

[fol. 837] Mr. Lange: A photostatic copy was introduced.

Mr. Coates: That was introduced and marked as Defendant's Exhibit 7, and two copies of it furnished to counsel for the plaintiff.

Mr. Bobbitt: That is the six-cent contract he has. Where is the other contract, which Mr. Stein——

A. It is all covered by the same contract.

Q. Is this the contract and paragraph? (Counsel hands document to witness.)

A. Let's see. I had a copy of it, but I haven't seen it for a good long while. Paragraph 3 of this contract recites that "South Texas shall operate said gathering system and pay all the cost of such operation, including the blowing of wells, the furnishing of meter charts and the collecting and forwarding of said charts. Southern shall continue to maintain and repair said gathering system". But my interpretation of this contract, if I may state it——

Mr. Coates: All right; the same objection.

A. ——is that South Texas shall pay the operating costs.

The Court: Wait just a moment. I think you have gone far enough to show that you didn't include that one-cent, because of that paragraph you have now read.

A. That is one paragraph. It states that the South Texas Company shall pay the costs of the gathering lines.

[fol. 838] Mr. Coates: And that the Southern shall pay the——

A. Shall pay the maintenance costs.

Mr. Bobbitt: Any other reasons?

A. That's all I can recall at the present.

The Court: Now, as I understand, you have given a number of reasons why you didn't include that one-cent gathering charge in the cost of gas to the Laredo line.

A. The one-cent gathering charge?

The Court: The one-cent gathering charge. And the exhibit which you have made and introduced here showing the cost of gas purchased does not include that one-cent gathering charge?

A. It does not.

Q. Mr. Lewis, in reference to——

Mr. Coates: We move to strike this testimony at this time, for each and all of the reasons for which it has been objected to, and because by this witness explaining and giving his reasons, some of which we believe are legal conclusions, he is getting into the record by indirection, as his reasons, legal conclusions as evidence before the jury.

The Court: The motion is overruled.

Mr. Coates: Note our exception.

Q. Mr. Lewis, in connection with the defendant's Exhibit [fol. 839] 3, prepared by Mr. Womack, I will ask you whether you made any comparisons as to operating expenses for the two years as to an increase or a decrease? Is that a memorandum of your comparison? (Handing paper to witness.)

Mr. Coates: What is he comparing?

Mr. Lange: The operating expenses reflected in Womack's Exhibit 3.

A. Yes, I made such comparison.

Q. As decreasing or increasing, please explain the comparison you made.

A. In comparing the defendant's Exhibit 4 for the year ended July 31, 1932, and Exhibit 3 for the year ended December 31, 1933, I have made the following comparisons: Production Expenses $26,638.70—that is for the year ended July 31, 1932.

Q. Where does that appear in the defendant's exhibit?

A. It is on page 1 of Defendant's Exhibit—I don't have Exhibit 4. It is page 1 of the July, 1932, section of Exhibit 4. (Counsel hands document to witness.)

Mr. Lange: Does the Court have those two?

The Court: I believe that I have. That will be on page 3 of——

A. Page 3 of the July 31, 1932, section of the exhibit. There are several sections to the exhibit.

The Court: Yes.

[fol. 840] A. I will start again with my comparison. Production expenses: for the year ended July 31, 1932, was $26,638.70; for the year ended December 31, 1933, $21,111.61; or a decrease of $5,027.09. Transmission expenses: for the year ended July 31, 1932, $12,557.80; for the year ended December 31, 1933, $10,131.28; or a decrease of $2,426.52. Distribution expenses: for the year ended July 31, 1932, $21,309.93; for the year ended December 31, 1933, $13,978.32; or a decrease of $7,331.61. Utilization expenses: for the year ended July 31, 1932, $462.83; for the year ended December 31, 1933, $7.91; or a decrease of $355.92. Customers expenses: $16,071.76 for the year ended July 31, 1932; and for the year ended December 31, 1933, $14,136.54; or a decrease of $1,935.22. New Business expenses: $6,790.34 for the year ended July 31, 1932; for the year ended December 31, 1933, $6,077.61; or a decrease of $712.73. General expenses: for the year ended July 31, 1932, $30,069.66; for the year ended December 31, 1933, $39,456.00; or an increase of $9,386.34. Taxes: for the year ended July 31, 1932, $13,513.60; for the year ended December 31, 1933, $14,921.77; or an increase of $1,408.17. Expressed in percentage of increase—that is, using July 31, 1933, figures as [fols. 841-850a] a hundred per cent, the percentage of increase or decrease in these items is as follows: Production

expenses, decrease: 20.75 per cent. Transmission expenses, decrease: 19.32 per cent. Districution expenses, decrease: 34.40 per cent. Utilization expenses, decrease: 76.68 per cent. Customers expenses, decrease: 12.04 per cent. New Business expenses, decrease: 10.42 per cent. General expenses, increase: 31.22 per cent. Taxes, increase: 10.42 per cent.

Mr. Coates: What is your figures for Utilization, again?

A. 76.68 per cent.

Q. As a further comparison, Mr. Lewis, during these two periods,—the period ending July 31, 1932, as compared with the period ending December 31, 1933, which period shows the highest revenues?

A. The year ended July 31, 1932.

Q. Does that same period reflect the highest or the lowest—or a lower general expense?

A. General expenses increased; for the year ended December 31, 1933, over the year ended July 31, 1932, general expenses increased 31.22 per cent.

* * * * * * * *

[fol. 850b] [File endorsements omitted]

* * * * * * * *

[fol. 851] Morning Session

Friday, March 16, 1934, 10:00 A. M.

Leon O. Lewis, Jr., a witness for the Plaintiff, resumed the stand, and testified:

Direct examination.

Questions by Mr. Lange:

Q. Now, Mr. Lewis, turn to Plaintiff's Exhibit 8, page 1, with reference to the item of gas sales under operating revenues. I will ask you whether you have the total in M. C. F. of gas that was taken inside the City of Laredo for the several periods represented on that page?

Mr. Coates: It is understood that our objection goes to the exhibit and all the testimony for the years other than those for which the rate here is made effective.

A. Yes, I have those.

Q. Will you give it to us in the various classifications, as to meters and then as to industrial and residential and commercial?

A. You want only inside the City of Laredo sales?

Q. That's right.

A. I will give you first the year ended December 31, 1933.

Q. All right.

A. I will have to make some computations as I go along. I have the total meters read for the year, and so I will have [fol. 852] to make a computation each time to get the average number.

Q. If it will take you any considerable period of time——

A. The way I have my papers set up, I have the total meters read and in each instance I will have to divide that figure by 12 to get the average for the year. I can give you the volumes and the revenues now and compute the number of meters later, if you like.

Q. Do that.

A. For the year ended December 31, 1933, within the City limits of Laredo, residential volume was 155,018 M. C. F.; revenues, $110,695.85. Commercial volume, 50,098 M. C. F.; revenues, $25,914.25. Industrial volume, 99,825 M. C. F.; and revenue, $18,464.13. Government and municipal volume, 3998 M. C. F.; revenue, $2,071.03. Public utility for fuel, 136 M. C. F.; revenue, $54.40.

Q. That is for the year ending December 31, 1933?

A. Yes. For the year ended July 31, 1932: Residential volume, 170,797 M. C. F.; revenue, $122,857.90. Commercial volume, 71,167 M. C. F.; revenue, $33,407.69. Government and municipal volume, 4303 M. C. F.; revenue, $2,257.42. Industrial volume, 92,335 M. C. F.; revenue, $18,424.02. Public utility for fuel, 76,715 M. C. F.; revenue $15,353.30.

Q. That is for the year ended July 31, 1932?

A. Yes, and then there is affiliated companies, 244 M. C. F., revenue $48.80. For the year ended June 30, 1931, residential sales were 191,051 M. C. F.; revenue, $130,590.57. [fol. 853] Commercial volume 92,703 M. C. F., revenue $38,846.79. Government and municipal volume, 4560 M. C. F., revenue, $2,208.68. Industrial volume, 370,132 M. C. F., revenue, $74,325.69. Affiliated companies, volume 40,902 M. C. F., revenue, $8,180.40.

Q. And that is the period ended June 30, 1931?

A. Yes.

Mr. Coates: Now, was that classification that you have given, in effect throughout that year?

A. There was a change in classification, I believe, at about November 1, 1930, wherein some meters that had formerly been included in a domestic classification were segregated and some were put in residential and some in government and municipal classification.

Mr. Coates: And were those meters classified as domestic—do they show in these figures you have given here, as residential?

A. They do. For the year ended June 30, 1930, at that time there was a different classification to the periods I have named before. Domestic volume, 211502 M. C. F., revenue $142,910.08. Semi-industrial volume, 82,663 M. C. F., revenue, $33,004.08. Industrial volume was 662,245 M. C. F., revenue, $130,271.27. Affiliated companies volume, 66,439 M. C. F., revenue was $13,287.80.

Q. And that is for the period ended June 30, 1930?

A. That is correct. For the year ended June 30, 1929: Domestic volume was 195,741 M. C. F.; revenue, $132,-[fol. 854] 251.07. Semi-industrial volume, 89,087 M. C. F.; revenue, $36,584.26. Industrial volume, 566,983 M. C. F.; revenue, $107,916.84. Affiliated companies, and that classification was run from January to June, 1929, or the sales are only for that period, volume, 22,844 M. C. F.; revenue, $4,568.87.

Q. That is for the period ended June 30, 1929?

A. Yes. Now, the periods ended June 30, 1929-1930 and 1931, the figures I have given are net, and do not include forfeited discounts, while for the years ended July 31, 1932, and December 31, 1933, the revenues I have given do include forfeited discounts.

Q. Explain that item of forfeited discounts?

A. That is the amount that is added to the net bill if it is not paid at a particular date.

Q. Do you know the per cent discount involved in that; is it ten percent?

A. The net bill, as I understand it, is 67½ cents per thousand cubic feet, and if it is not paid by a specified date, the amount is increased to 75 cents.

Q. And the discount is 10 per cent of 75 cents?

A. Well, 7½ cents is 10 per cent of 75 cents; that is correct.

Q. Mr. Lewis, in connection with the preparation of this exhibit reflected on page 1, you state this is a consolidated statement of earnings from operations within the City Limits of Laredo. I will ask you whether in preparing that statement, it was necessary for you to make certain alloca-
[fol. 855] tions out of the whole property to segregate the operations within the city limits of Laredo?

A. Yes, the Texas Border Gas Company distributes gas not only in the city of Laredo—or did distribute gas not only within the city limits of Laredo, but a number of other towns in that district.

Q. You might mention right there, what distribution systems besides the one in the city of Laredo were operated by the Texas Border Gas Company during these periods.

A. The distribution systems at Hebbronville, Bruni, Mirando City, Oilton, Aguilares and from about January 1, 1930, at Roma.

Q. All right; proceed.

A. For the first four periods shown on the statement, the Texas Border Gas Company operated the distribution systems in those towns named, and the operating revenues and expenses were contained in one set of accounts. There was no allocation made on the books, as between towns. In segregating the revenues, I was able to do that exactly, because the records of the company reflected the point at which the sales were made, but in connection with the operating expenses, it was necessary to make certain allocations as between Laredo and the other towns in the district, and then too, there were some sales within the Laredo city gate which are made outside the city limits of Laredo.

Q. Where are they made to?

A. I am not sure as to the definite location of those
[fol. 856] sales. I was supplied with a list of the meters which were located outside of the city limits.

Q. Do you have that list among your papers?

A. I have it somewhere; I don't know whether I have here with me or not.

Q. Well, among those on the list, I will ask you whether there is not one supply that goes through the city gate of Laredo and is measured at the Nuevo Laredo gate into Nuevo Laredo?

A. There are two meters, I believe, measuring gas on the north side of the river for sale to the Nuevo Laredo Gas Company.

Q. And that gas goes into Nuevo Laredo, Mexico?

A. Yes.

Q. Now, is there any gas that goes through the Laredo distribution system into Fort MacIntosh?

A. There is.

Q. Is there any gas that goes through the distribution system into the lines known as the North River line, along the Rio Grande River?

A. I believe that is the way the line is designated, and another line also, known as the South River line.

Q. Yes, and each of which lines has a meter connected to it, serving consumers outside the city and along those lines?

A. That is correct.

Q. Then the gas that goes to those consumers residing in Carlton Gardens, passes through the Laredo distribution system, does it not.

[fol. 857] A. All the sales made in the Laredo town plant, and I will use that term to designate both inside and outside the city of Laredo on the distribution system, pass through the Laredo city gate except for small deliveries which are made from the transmission line before the gas reaches the city gate; but except for that small amount of gas, all gas sold there in the city of Laredo or outside the city limits on the Laredo distribution system, passes through the Laredo city gate meter.

Q. And there is also a meter that serves the smelter situated outside the city of Laredo?

A. Yes.

Q. The Timonox Refinery, I believe it is.

A. Yes.

Q. Now, will you explain the method of allocation followed by you in connection with the distribution properties, Mr. Lewis?

A. The distribution system operating expenses, or the distribution system operations, distribution system maintenance and customers expenses, have been allocated on the basis of the average number of meters served for the twelve months periods indicated.

Q. Why did you use that method of allocation, Mr. Lewis?

A. I used that method of allocation because I considered it fair both to the company and to the city of Laredo, and that method applies to each meter the same per meter cost of those expenses for each year. That is on the theory

that the distribution system operations, maintenance ex-
[fol. 858] pense and customers expense is proportional to the number of meters served.

Q. And you believe, in the light of your experience that that is the fairest way in your opinion to make that allocation?

A. Yes, I think that is fair. I don't know that it would be the fairest—there are a number of ways that the items might be allocated.

Q. You do not have available the demand load factor in this case, do you?

A. No, sir.

Q. And for that reason you could not apply that method, without the facts and figures available to support that method?

A. I will say this for that method of allocation: if you start considering load factor and demand and those items, you will get into a lot of complications, and I don't know, when I was finished whether it would be perfectly clear to me; and this method, while I consider it fair, is a simple method of allocation.

Q. And you pursued that in connection with the allocation of the operating items affecting the distribution system in the city of Laredo?

A. Yes, the items that I have mentioned.

Q. Those you have mentioned. What method of allocation did you pursue with reference to any of the other operating items affecting the distribution system in the city of Laredo?

A. The new business expense was allocated to the city of Laredo on the basis of gross revenues.

[fol. 859] Q. Now, explain how you proceeded on that?

A. Well, I charged to the city limits of Laredo, the proportional part—and I am speaking of the first four periods shown on the exhibit now.

Q. That is, 1929, 1930, 1931 and July 31, 1932?

A. Yes.

Mr. Coates: This does not apply to the calendar year of 1933?

A. The first item we discussed does—that is, the meter basis, and the same method is pursued in connection with new business expense, except that for the first four years, I took the total new business expense of the Texas Border

Gas Company, and allocated that proportionate part to the City Limits of Laredo which the gross revenues in the city of Laredo bear to the total gross revenues of the company. For the year ended December 31, 1933, the district new business expense of the Laredo district of United Gas Public Service Company is allocated on the basis of gross revenues. That is, the city of Laredo is charged with that proportionate part of the district new business expense which the city of Laredo's gross revenues bear to the total gross revenues of the Laredo district.

Q. Now, did you apply that method to any other item of operating expenses in the city of Laredo distribution system?

A. General expenses for the first four periods named, the years ended June 30, 1929-1930 and 1931, and the year ended July 31, 1932, are allocated on the basis of gross [fol. 860] revenues, taking the total general expense of the Texas Border Gas Company, and allocating to the city of Laredo that proportionate part of the total which the gross revenues within the City of Laredo bear to the gross revenues of the company.

For the year ended December 31, 1933, the district general expenses of the Laredo district of United Gas Public Service Company are allocated on the basis of gross revenues, that is, the city of Laredo is charged with the proportionate part of the district general expense which the total revenues or gross revenues within the city of Laredo bear to the total gross revenues for the district.

The general office and general expense of the Houston office was allocated—Well, starting with the general office, the total general office and general expenses of the general office was first allocated to the Laredo district. The first allocation was to segregate that total as between the production, transmission and distribution departments. For that segregation, I used the same percentages that the company has indicated in their manual; I have not examined Exhibit A, but I think it is the same percentages.

Mr. Coates: You are referring to Defendant's Exhibit 2, I believe it is?

A. Was it Exhibit 2? Anyway, in the Houston offices, I discussed at length with the employees and officials of the company, their methods of allocation of expense, and undertook to use, for the allocation between production,

[fol. 861] transmission and distribution system departments, the same method of allocation that they have used. The part of that which was allocated to distribution system, I have allocated to the Laredo district on the basis of gross revenues, operating expenses and number of customers, given equal weight in the percentage to each of the three items mentioned. The allocation from the Laredo district to the city limits of Laredo I have allocated on the basis of revenues and number of meters.

Q. Does that comprise all the allocations that you have made, affecting the operating expenses in the city of Laredo—the distribution system operating expenses?

A. No, there is distribution system taxes.

Q. How did you allocate those?

A. I did not make an analysis of the tax account. The taxes are all carried on the general office books in Houston, and an analysis of that account for the entire United Gas Public Service Company entailed quite a bit of time, and I have taken the company's analysis of the tax account, and those items of ad valorem taxes as specifically applied to the South Texas area I have divided between the distribution system and the transmission system properties. In other words, I took the taxes paid on the old Texas Border Gas Company properties and allocated them on a number of bases.

Mr. Coates: Does this apply to all periods, Mr. Lewis?

A. Yes. There might have been some minor change, but the general theory and principle is the same. The ad [fol. 862] valorem taxes on the old Texas Border Gas Company properties include taxes paid in Jim Hogg County, none of which have I allocated to the City of Laredo; the Hebbronville Independent School District taxes have not been allocated to the city of Laredo. Starr County taxes were not allocated to the city of Laredo.

The taxes for Webb County were allocated to the city of Laredo on the basis of the number of meters in Webb County. That is, taking the number of meters in the city limits of Laredo, and the total number of meters and distribution systems in Webb County, and I have allocated to Laredo that proportion. The City of Laredo taxes I allocated on the basis of the number of meters inside the city and outside the city, allocating to the city of Laredo 96.39 per cent of the City of Laredo Taxes, and outside of the city limits of Laredo, 3.61 per cent of the city of Laredo

taxes. The taxes paid in Mirando City have not been allocated to Laredo.

In connection with the general taxes of the distribution system, I have taken the company's analysis of general taxes paid and have used their method of allocation as between the transmission and distribution system properties. The general taxes, franchise taxes in Delaware, the first allocation is to allocate to the Texas properties, 17 per cent to the Texas transmission properties and 16.5 per cent to the Texas distribution properties.

Mr. Coates: Now then, do you mean all properties in the state of Texas?

[fol. 863] A. Yes, all properties in the State of Texas. The federal check tax and capital stock taxes have been allocated as between Texas transmission and distribution system properties on the same basis. Then, the allocation of the distribution system taxes was made to the Laredo district on the basis of—Well, Texas distribution system taxes were allocated to Laredo on the basis of the revenues, direct expenses and number of meters in Texas, and the Laredo district was allocated to the city of Laredo on the basis of revenues and number of meters.

Mr. Coates: Pardon me, Mr. Lewis, but have you mentioned Texas franchise taxes?

A. No, I haven't yet. The Texas franchise tax was allocated first to the transmission and distribution system properties, 48 per cent to transmission system properties, and 46.4 per cent to distribution system properties. Then, that part allocated to distribution system properties, was allocated to the Laredo district on the same basis as the general taxes—that is, revenues, expenses and number of customers, and the Laredo district taxes, Texas franchise, was allocated to the city of Laredo on the basis of revenue and meters.

Mr. Coates: Excuse me, Mr. Lewis—I am not breaking in for the purpose of disconcerting the witness, but so we'll not have this disconnected in the record. Do you mind giving, if counsel permits it, what is your basis of this first allocation of 48 per cent to transmission system and 46.4 per cent to distribution system properties?

[fol. 864] A. That is the percentages that the company advised me they were using in their allocations on the general books.

Mr. Coates: Do you know what representative of the company so advised you?

A. That is based on direct expenses, the pipe lines 48 per cent and distribution 46.4 per cent. I have not checked that percentage; that is the one I was given.

Mr. Coates: Do you remember who gave it to you?

A. I think I got that from Mr. Womack. You understand in that connection, I could not take the time to go through the entire United Gas Public Service Company properties, and on items of this nature, I had to rely on statistical information furnished to me.

Q. All right, proceed with your explanation.

A. The gross receipts taxes was not allocated, but was computed on the basis of gross receipts tax rates on the gas sold in the city of Laredo, after allowance for charged off accounts. I believe that is all of the taxes of the distribution system.

Q. Now, are there any other distribution system allocations?

A. No, I think that is all of the distribution system.

Q. Then proceed to the transmission system, and give us the allocations you have made.

A. I might explain here, before I proceed any further with my explanation, that those last general tax figures I gave, the discussion of ad valorem taxes will hold throughout the entire five year period, but due to the reorganiza- [fol. 865] tion in October, 1932, the allocation of general taxes will not hold throughout the five year period, for the reason that the year ended December 31, 1933, is the only period shown here wherein those general taxes were carried on the United Gas Public Service Company books; heretofore those general taxes were carried on the books of the Texas Border Gas Company, and allocations were made in much the same manner, except I did not have to start with the total of the United Gas Public Service Company.

Q. And that set up did not appear on the books with reference to the United Gas Public Service Company until beginning with October, 1932?

A. Well, these properties were transferred to the United Gas Public Service Company at that date.

Q. And is it from that period on that the matter of these various districts came into existence, or did they have those before?

A. Those districts were there before that transfer. The Texas Border Gas Company was in district 40 and the South Texas Gas Company was in district 70, prior to the transfer of the properties to the United Gas Public Service Company.

Q. Now, give us the methods you pursued with reference to allocating the transmission system operating expenses of the transmission properties serving Laredo.

A. Gas purchases are allocated direct to the city of Laredo; that is, taking the gas deliveries to the Laredo line, and allocating to the city limits of Laredo that proportionate part which the volume bears to the total volume [fol. 866] delivered to the line, so that gas purchases is really not an allocated figure.

Q. That is a direct charge?

A. It is an actual figure. Transmission system operations and maintenance for the first four periods shown are allocated on the basis of volume delivered by the transmission system.

Q. Just in connection with that, Mr. Lewis, please explain how that operates?

A. The theory is in burdening each thousand cubic feet of gas transported with the same unit transportation cost and maintenance, or spreading the total cost of transporting gas and maintaining the lines to the various units transported.

Q. Do you think the use of that method is a fair method of allocation to both the company and the city?

A. Yes, I think it is a fair method of allocation, because my study of the South Texas area indicated that there was a closer relationship between the volumes of gas delivered and the transmission system operating expenses than any other two known factors that I could find, and the relationship between those two was very close.

Q. Now, are there any other factors——

A. In connection with those two items, I had not given my allocation for the year ended December 31, 1933.

Q. All right; do that, then.

A. Transmission system operating expense was allocated on the basis of the transmission system operating expenses of district 70, and the South Texas Gas Company for the [fol. 867] last year that they were separated; in other words, The South Texas Gas Company, upon the transfer

of the properties, was placed in District 70 of United Gas Public Service Company. Prior to that time, District 70 existed, so that I took the operating expenses of South Texas Gas Company for the year ended October 31, 1932, and the operating expenses of district 70 for the same period of United Gas Public Service Company, and found the total transmission system operating expenses of the now District 70, for the year ended October 31, 1932, exclusive of pipe line rental, to be $34,197.38. Of that amount, the South Texas Gas Company was $16,020.22, or 46.84 per cent of the total. District 70 of the United Gas Public Service Company, transmission operating expense for the year ended October 31, 1932, was $18,177.16, or 53.16 per cent of the total. I have allocated the transmission system operating expense for the year ended December 31, 1933 to the South Texas area, and when I say the South Texas area, I mean the old South Texas Gas Company system, on that basis, allocating 46.84 per cent of District 70 expense to the South Texas area. Then, the portion allocated to the South Texas area has been allocated to the City of Laredo on the basis of volumes of gas delivered.

Q. What other transmission system operation allocations did you make, Mr. Lewis?

Mr. Coates: I beg your pardon—is that both transmission system operations and maintenance to which you have been referring?

[fol. 868] A. That is just transmission system operations. The transmission system maintenance has been allocated on the same basis. For the year ended October 31, 1932, the South Texas Gas Company's transmission system maintenance expense was $10,335.17. The transmission system maintenance expense of District 70 of the United Gas Public Service Company was $15,779.55, or the total for the now District 70 was $26,114.72. The South Texas Gas Company's portion is 39.58 per cent of that total, and the District 70 of the United Gas Public Service Company is 60.42 per cent of that total, so that for the year ended December 31, 1933, I have allocated to the South Texas area 39.58 per cent of the District 70 transmission maintenance expense. Of that part allocated to the South Texas area, I have allocated a part to the City of Laredo, upon the basis of the volumes of gas delivered.

Q. That concludes all allocations you made with reference to transmission operating expenses?

A. No, there is the geenral expense of the transmission system, which for the years ended June 30, 1929, June 30, 1930, June 30, 1931 and July 31, 1932, have been allocated on the basis of gross revenues, allocating to Laredo the proportionate part of the South Texas Gas Company general expense which the gross revenues from gas deliveries for the city of Laredo bear to the total revenues from gas deliveries for the South Texas Gas Company. For the year ended December 31, 1933, the district general expense has [fol. 869] been allocated on the basis of proportion of the lineal miles and three inch equivalent miles, giving each item equal weight in the allocation percentage. The general expense of the general office in Houston for the year ended December 31, 1933, has been allocated, first by taking the total general office expense, and allocating it as between transmission, distribution and production departments, as stated in connection with the distribution system expense. Then, taking that part of the general expense relating to transmission properties, I have allocated the total transmission general expense to the South Texas area on the basis of lineal and three inch equivalent pipe, and have allocated to the City of Laredo, from the South Texas area, upon the same basis.

[fol. 870] Q. It is your opinion that that method of allocation is fair to both the company and the City. Explain why you have used it.

A. I had to deviate from my general expense allocation for prior years for the reason that the old South Texas Gas Company was transferred to the United Gas Public Service Company and at that time the gas was no longer billed to the city gate stations, so that the only — reflected in the transmission district under the present set-up is the gas sold at Roma for delivery to Monterrey and some miscellaneous pipe line sales of small amounts, so that I could no longer use the allocation factor that I had used in prior years. In allocating the general office expense down I could not study the entire United Gas system, but have used the basis adopted by the company for that allocation.

Q. Now, you have explained the methods of allocation that you have used, both in connection with distribution system operating expenses and transmission system operating expenses?

A. I believe I have given all except taxes.

Q. Well, give us those.

A. For the first four years shown in this period—I will take the last year first, the year ended December 31, 1933. In connection with ad valorem taxes of the old South Texas Gas Company properties the following ad valorem taxes [fol. 871] were paid: To Duval County, $62.98, of which I allocated no part to the city of Laredo. Benavides school district taxes, $18.15, have not been allocated to the city of Laredo.

Q. Why?—give your reasons.

A. Because the transmission system serving Laredo does not pass through those taxation districts.

Q. All right.

A. Jim Hogg County and Hebbronville independent school district have not been allocated to Laredo.

Q. Why?

A. For the same reason. Starr County was not allocated to Laredo.

Q. For the same reason?

A. For the same reason. Starr County independent school district has not been allocated to Laredo. Webb County taxes have been allocated to the gas deliveries in Webb County on the basis of volume deliveries. Mirando independent school district taxes have not been allocated to Laredo. The city of Laredo taxes have been allocated as between inside the city limits and outside the city limits on the basis of volume deliveries. Zapata County taxes have not been allocated to the city of Laredo.

The Court: What county is that?

A. Zapata. The general taxes first were split as between the various departments as explained a few moments ago, and the transmission part of the general taxes has been [fol. 872] allocated on the basis of lineal and three inch equivalent miles until it reaches the Laredo sector and from there on on the basis of volume deliveries.

Q. Why do you make those two allocations in that connection?

A. That is the basis that I used for distributing general office general expenses, and these general taxes are in the nature of general expenses, and I used the same method of allocation.

Q. Does that cover all allocations made by you as to the operating expenses of both transmission and distribution systems?

A. In connection with taxes I gave my method for the year ended December 31, 1933. For the four preceding years shown on Exhibit 8, page 1, I used the same method of allocation for ad valorem taxes, or substantially the same method; there might be some minor changes, and for the general taxes in those four periods I used the basis of gross revenues.

Q. Why did you use that basis for the four years?

A. You mean in connection with general taxes?

Q. Yes.

A. That is the basis I allocated general expenses during the four year period.

Q. Now, Mr. Lewis, in reference to the total M. C. F. that you gave us a while ago as deliveries within the city limits, have you the total M. C. F. deliveries of gas for the period [fol. 873] ending December 31, 1933, that were delivered from the Roma line to Monterrey?

A. Yes. You want the deliveries at the Roma check meter?

Q. Yes.

A. There was delivered at Roma to the Cia Mexicana de gas on the pressure base of two pounds 14.4 1,806,640 M. C. F., and there was delivered to another Mexican company that I can't pronounce——

Q. Just spell it.

A. Cia Explotodora de Hidrocarburos—delivered on the pressure base of ten ounces 14.4 15,895 M. C. F. Do you want——

Q. Both of the companies you just mentioned are situated within the Republic of Mexico?

A. The first one is. The second one I would presume by its name is. I don't know the exact locations.

Q. What did you say when I interrupted you?

A. Do you want the deliveries to the Roma city border station?

Q. Yes.

A. There was delivered at the city border station at Roma 1,546 M. C. F. on a pressure base of two pounds 14.7.

Q. That is during the twelve month period ending December 31, 1933?

A. Yes, sir.

Q. Can you give us the wells from which that gas originated?

A. You want the total deliveries of gas to the Monterrey line and the Jennings-Roma line?

Q. Have you got it separately?

[fol. 874] A. I have the gas deliveries to the Monterrey line as termed on the company books.

Q. Give us that first?

A. Do you want the deliveries by wells?

Q. Yes.

A. And the volume from each well?

Q. Yes.

A. The United Production Corporation's J. D. Jennings No. 2 on a pressure base of two pounds 14.4, 23,502 M. C. F. United Production Corporation's J. D. Jennings No. 4 on a pressure base of two pounds 14.4, 39,834 M. C. F. United Production Corporation's J. D. Jennings No. 5 on a pressure base of two pounds 14.4, 12,842 M. C. F. United Production Corporation's J. D. Jennings No. 6 on a pressure base of two pounds 14.4, 3,702 M. C. F. United Production Corporation's J. D. Jennings No. 10 on a pressure base of two pounds 14.4, 428,513 M. C. F.

Q. Now, what well is that?

A. J. D. Jennings No. 10.

Q. J. D. Jennings No. 10, and the M. C. F. was what?

A. 428,513.

Q. Expressed in figures, not using M. C. F., how much gas is that—how many million cubic feet of gas is that?

A. That is 428,513,000 cubic feet.

Q. That is Jennings No. 10?

A. Yes, sir. United Production Corporation's Cuellar Brothers No. 1—that gas was delivered at varying pressure [fol. 875] bases during the year; delivered on the contract pressure base there was 39,223 M. C. F.

Mr. Coates: What was that contract pressure?

A. It was billed at ten ounces part of the time; I didn't see the contract, but the delivery showed that at times it was billed on a ten ounce base and at others on a two ounce base. That delivery corrected to a pressure base of two pounds 14.7 is 37,725 M. C. F. United Production Corporation M. B. Gutierrez No. 1 on a pressure base of two pounds 14.4, 359,333 M. C. F. United Production Corporation F. G. Martinez No. 3 on a pressure base of two pounds 14.4,

5,278 M. C. F. United Production Corporation F. G. Martinez No. 4 on a pressure base of two pounds 14.4, 9,155 M. C. F. Southern Gas Utilities R. Hinant No. 4, 10,592 M. C. F. United Production Corporation F. Cuellar No. 1 on a pressure base of two pounds 14.7, 107,500 M. C. F. This pressure delivered at the Jim Hogg check meter is 516,891 M. C. F. No, that is wrong; it is 645,503 M. C. F.

Q. Expressed otherwise, that would be 645,503,000 cubic feet?

A. That is correct.

Q. That is for the period ending December 31, 1933?

A. Yes, sir.

Q. Do you know the point of origin of that gas?

A. I don't know whether I have that or not, Mr. Lange. I don't believe I have it. I have it for a month or two, but not for the entire year, and the month or two that I have [fol. 876] I don't seem to have with these papers. I can check that and tell you if I have it.

Q. All right. Now, Mr. Lewis——

A. I am not through with these deliveries, Mr. Lange.

Q. All right.

A. Henne Winch Fee No. 2 on a pressure base of two pounds 14.7, 5,473 M. C. F. Henne Winch Fee No. 1 on a pressure base of two pounds 14.7, 33,334 M. C. F. Henne Winch Cuellar No. 1 on a pressure base of two pounds 14.7, 95,789 M. C. F. A. J. Condron Rafael Garza No. 1 on a pressure base of two pounds 14.7, 73,354 M. C. F. Henne Winch F. Cuellar No. 2 on a pressure base of two pounds 14.7, 38,598 M. C. F. That, I believe, is all the deliveries to the Monterrey lines for that year.

The Court: Gentlemen, let's take a few minutes recess now.

(Recess.)

[fol. 877] (After Recess)

The Court: All right; proceed, gentlemen.

Q. Mr. Lewis, yesterday you referred to the fact that certain portions of the transmission line—the Pescadito-Jennings transmission line were reconditioned, and the operating expenses on which you had vouchers covering that reconditioning work during the period ending December 31, 1933.

A. Yes; I testified, I believe, that the materials and supplies that went into the lines were just charged to the maintenance account in the regular monthly distribution, and that the vouchers themselves did not show where the materials went.

Q. That is true, but——

A. I have some items of cash disbursement reports that show some details.

Q. Of what—of the labor costs?

A. There are some labor costs included in those.

Q. Have you got those with you?

A. I believe I have. (Witness refers to data.) Yes, I have a list of the cash disbursements report items that I have eliminated.

Q. Give us those that reflect labor costs in any particular item.

[fol. 878] A. In June, on Southern Gas Company's cash disbursement report No. 147 there was paid to one Rodriguez for ditching and backfilling Jennings six-inch line 10,960 feet, at four cents, or a total of $438.60. On cash disbursements report of Southern Gas Company, No. 149, to the same Rodriguez, ditching and backfilling, 23,285 feet, at four cents, $931.40.

Q. Could you give us the date of that disbursement?

A. I do not have the exact date. It is a June, 1933, cash disbursements report.

Q. In the month of June, 1933?

A. Yes.

Q. All right.

A. And in the same month, cash disbursements report No. 148 to Banks Moreland for cleaning and sand blasting and priming six-inch pipe on Jennings line, cleaned 20,399 feet at $.0212, $432.46; that rate is two and a fraction cents. Sand blasting 19,356 feet, at $.0270, $522.61; or a total of $955.07, less an amount charged to District No. 15 of $207.26 leaves a net amount charged to District 70 of $747.81. And cash disbursements report No. 150 of Southern Gas Company, in June 1933, to Banks Moreland, cleaning Jennings six-inch pipe, 18,131 feet, at $.0212, sand blasting 18,616 feet at $.0270, or a total of $887.08.

Q. Just right there. Express that in terms of cents per [fol. 879] foot.

A. For the cleaning it would be 2.12 cents per foot, and the sand blasting would be 2.7 cents per foot. And then

in June, 1933, to Rodriguez for ditching Jennings six-inch line, 9,170 feet, at three and a half cents a foot, $320.95. In July, 1933, Southern Gas Company's cash disbursements report No. 153, to Banks Moreland for cleaning 5,613 feet of six-inch pipe at 2.12 cents per foot, sand blasting and priming 11,661 feet at 2.7 cents per foot, $433.85. I believe that is all of the cash disbursements reports reflecting labor items that I have eliminated.

Q. Are there any other cash disbursements reports reflecting labor items that you have, covering that period, that show labor cost for reconditioning work?

A. I believe this is all that I have on the details of those items I have eliminated.

Q. You have no others, or have you any others for that period, reporting in detail as to the labor cost?

A. No, I did not get any detailed information except on these items that I have eliminated.

* * * * * * *

[fol. 880] J. P. KINNEY, a witness for plaintiffs, resumed his testimony and testified as follows:

Cross-examination.

Questions by Mr. Coates:

Q. Mr. Kinney, you testified in the hearing of this case before the Railroad Commission, did you not, sir?

A. Yes, sir.

Q. And that portion of page 2 of Plaintiffs' Exhibit No. 4—that is, the page styled Border Gas Company, Texas Border Gas Company, and South Texas Gas Company, Historical Cost of Fixed Capital as Shown by Books—that page, in respect to the portions thereof on which you prepared the basic figures, is the same as you introduced before the Commission, is it not?

A. Yes, sir.

Q. Mr. Kinney, did you make an audit of the books of these companies back to the beginning date?

A. You wouldn't call it a detailed audit; no, we made a—we made that for the purpose of establishing investments and operations to be proved through surplus reconciliations, to arrive at a figure for April 10th, 1928.

Q. Well, what do you mean, and what is generally meant in the accounting profession by an audit?

A. Well, there are several classifications of audits, probably a half a dozen, commonly known; there are various [fol. 881] style audits, detailed audits——

Q. Well, what was——

A. Balance sheet audits, company audits, complete audits, cash audits, special investigations—numerous kinds of audits.

Q. And what character of audit was this one that you made?

A. That was more or less of a balance sheet audit, we would term it.

Q. And you would not term it a complete audit?

A. It is a balance sheet audit, more or less.

Q. A balance sheet audit, more or less?

A. Yes.

Q. Did you examine and analyze the vouchers underlying each entry on the plant and property account?

A. We checked each and every voucher that was available at Laredo; some of the vouchers had been shipped to Houston, some back, some lost.

Q. And on about what per cent of the total entries, in numbers, did you examine vouchers?

A. About—I would say about eighty-five or ninety per cent of the vouchers were in Laredo, of that period.

Q. And did you examine all those that were in Laredo?

A. Yes, sir.

Q. And expressed in dollars entered on the plant and property account, about what per cent of the vouchers underlying the entries did you examine?

A. Practically all the vouchers, with very few exceptions, [fol. 882] were in Laredo. Some of the principal vouchers relating to dividends and financial transactions, for some reason or other, were not in Laredo.

Q. Now, does this item shown on page 2 of Defendant's Exhibit 4, headed Additions, is that column correct, as reflected by the books of the Company which you examined?

A. Yes, sir, of the old ledgers.

Q. Of the old ledgers. And what is the opening entry on the old ledgers?

A. The opening entry was a journal voucher, No. 1, charging plant equipment with $550,000.00, and crediting

capital stock with $300,000.00, and surplus with $250,000.00.

Q. Then the opening entry, as shown on these books of account, is $550,000.00, is it?

A. Yes, sir, as well as I remember.

Q. And this figure of $166,996.68 you have substituted for the opening entry, as explained in your direct examination, have you?

A. Yes, sir.

Q. That was on the basis of a bill of materials, or, I believe, styled Analysis of Investment which has been introduced here and styled Plaintiffs' Exhibit 6?

A. Naturally——

Mr. Lange: For the purpose of the record, Mr. Coates, that doesn't state a bill of materials.

Mr. Coates: Well, I changed it, and said analysis of in-
[fol. 883] vestment.

A. Naturally, from an accounting standpoint, if he knows his business, or half way knows it, he does not rely strictly upon a blank voucher—five hundred and fifty, debit this and credit that; he wants to know what is behind that.

Q. Yes.

A. So much this, and so much that. The consequence is that—when I saw the $550,000.00, I naturally wanted to know what it was—so much soap, water, materials, supplies, houses, or what-nots; and in order to arrive at that I went back into some of the old records of the franchise-holders, Mr. Johnson and Mr. Reiser, with the permission of Mr. Robinson and Mr. Thorne, and we finally dug up some of these old records, which disclosed that this $166,000.00 was all the equipment they had, and further evidence of some old capital stock tax returns around there, and correspondence with the Company showed that there were three hundred eighty-three thousand some odd that were intangibles; that was further substantiated and proved through yearly journal vouchers set up, showing that they did not compute depreciation on this three hundred and eighty-three some odd thousand, but on the one hundred and sixty-six thousand, and those two figures together made the five hundred
[fols. 884-910] and fifty thousand dollars.

• • • • • • •

[fol. 911] Redirect examination.

Questions by Mr. Bobbitt:

Q. That figure you have been interrogated about last, that includes, as I understand from the books and records of the Company, all of the property, transmission, distribution, and everything else?

A. All property accounts.

Q. Inside and outside the city of Laredo?

A. I don't know where they were. Probably just as reflected on the books. I don't know where the properties were located.

Q. The old Border Gas Company and the books and records about which you have been testifying, are the books and records of the old Border Gas Company from its organization down to the time you testified about?

A. That's right.

Q. And were the books and records of that company fur-
[fol. 912] nished to you by the officers, employees, and Managers of the Company?

A. They were, yes, sir, at Laredo.

Q. At Laredo?

A. Yes, sir.

Q. And the United Gas Public Service Company, according to your analysis and figures here, have succeeded to the ownership of all these properties of the old Border Gas Company?

A. As far as I understand.

Q. Now, back in those early days, the old Border Gas Company owned the properties—the transmission properties, the gathering lines properties, as well as the distribution properties—all as one unit?

A. They handled the whole thing.

Q. And they even had some producing properties there, did they not—they owned the gas wells, did they not—if you know?

A. Well, I wouldn't say that I knew that. They bought some gas, I know, from the Texas Company in those days.

Q. You don't know how many gas producing wells the Border Gas Company owned itself?

A. I don't know.

Q. You were asked about the books showing Gas Purchases up to 1924, and I believe you stated that beginning 1924 they set up a different——

A. They began to classify their accounts a little bit different.

Q. Prior to that time how were the Gas Purchases handled on the Company's books?

[fol. 913] A. Just simply through a Gas Sales and Purchasing Account. The account was credited with all revenues, and charged for all purchases. It was just like the old Merchandise Account.

Q. And included in that account was the Gas Purchases?

A. On the debit side of that account.

Q. You testified a moment ago about dumping an account or item here and there?

A. That particularly applied to depreciation, retirement expenses, and such as that. They did not have any set and fast rule as to where to put them.

Q. Well, that same situation could obtain now with all these high-falutin' bookkeeping systems we have, couldn't it?

A. Couldn't only, but it does. A good many concerns forget about depreciation.

Q. You were asked a line of questions here, Mr. Kinney, by Mr. Coates in reference to whether there was an item in these records here for plans and specifications, and corporation expenses, and interest during construction—there were no separate items set up for those accounts?

A. No; in those days they overworked, as an accountant would say, miscellaneous and general expense.

Q. From an examination of the records of this Company, don't they reflect that they got the money together and built a transmission line and distribution system and went to selling gas?

A. Yes.

[fol. 914] Q. And the Company kept a set of books, which you have examined, and it was just about the customary kind for companies operating at that time, of that character?

A. Companies in the promotion stage—just getting started.

Q. You could not find anything in the Company's book and records that they furnished you justifying this item in excess of three hundred and eighty thousand dollars, could you?

A. Three hundred eighty-three thousand and some odd. I could not find anything and the Company officials at Laredo could not advise me.

Q. You tried to find it?

A. I asked the officials at Laredo.

Q. And you looked on the records and the Company's books there in trying to find it?

A. Yes, sir.

Q. And you interrogated the Company's officers?

A. Yes, sir; Mr. Robertson and Mr. Thorne.

Q. And Mr. Robertson was the Manager there?

A. Yes, sir.

Q. And you could not find any justification for setting it up after interrogating them?

A. No; they did not know.

Q. In connection with all those questions you were asked, there are no items about Supervisor's Expense or Sponsor's Expenses?

[fol. 915-920] A. Sponsors were not known in those days in Laredo.

Q. Were they known in other sections, according to your knowledge?

A. This is the first time I heard of it.

Q. Just one other question, Mr. Kinney. You are of Irish descent, aren't you?

A. Somewhat, yes, sir.

Mr. Bobbitt: I believe that is all.

The Court: Gentlemen, it is twelve o'clock, and we will recess until two fifteen.

(Thereupon at 12:00 o'clock noon, the Court recessed until 2:15 o'clock, P. M. same day.)

* * * * * * *

[fol. 921] Redirect examination.

Questions by Mr. Bobbitt:

Q. In discussing this matter of the three hundred eighty-three thousand dollars with the officers of the Company at Laredo, and trying to arrive at this amount set up of one hundred sixty-six thousand dollars, did you get information from the officers of the Company as to why that figure was placed at one hundred sixty-six thousand dollars, in-

stead of five hundred fifty thousand dollars, with respect to the Government income tax matter?

Mr. Coates: We don't object to his eliciting the information, but we would like for him to identify whom he talked to, so it would not be a conclusion of the witness that the party he talked to about it was an officer.

The Court: If he can identify him, he ought to do so.

Mr. Bobbitt: Wait a minute.

A. What is the specific question?

Q. Now, I am asking you if, in connection with the set-up on the books of the Company at one hundred sixty-six [fol. 922] thousand dollars, instead of five hundred fifty thousand, you had any conversation with the officers or managers of the Company, and to name the officers, if you recall them, in respect to that matter?

A. Now, just as to whether they were officers of the Company, I am unable to say; but the conversation was with Mr. Robertson and Mr. Thorne, principally with Mr. Thorne, who was, as I understood, chief clerk of the Laredo office.

Q. And Mr. Robertson was the District Manager of the Company at Laredo?

A. I saw very little of him during this examination.

Q. Do you know whether Mr. Robertson was District Manager at that time or not?

A. I understood he was.

Q. What conversation did you have with these officers with respect to this matter?

The Court: Hasn't he already testified with reference to this matter?

Mr. Bobbitt: Not with respect to this matter.

A. No; if my memory serves me right. I am not making this as a positive statement.

Q. Just give your best knowledge and judgment, or memory.

A. At this time, I will say, I was endeavoring for several days—in fact about a week of my work was consumed in the Lost and Found Department trying to get up some of these things, which the officers themselves apparently did [fol. 923] not know they were there, some of them. I was trying to get the specific details on this five hundred fifty thousand dollars. That was causing me considerable con-

cern at that time. However, I went to Mr. Robertson and said, "I have got to know something about this, and I want somebody to tell me something that knows something around here about what they have got; if they can't, I will have to take it up with somebody else." So he delegated Mr. Thorne, and we went upstairs on the second floor, and there was a bunch of old records up there, and we looked for several days, and finally we went down in the safe and I began to get into some old tax files there, which are pretty good files when it comes to the question of depreciable properties. Then among those files I found a claim—an assessment rather, from the Government, assessing the Company some amount of taxes that was in litigation at that time. There was quite a bit of correspondence between the New York, Houston and Laredo offices, Laredo playing a small part in it at that time; but among those tax documents was this capital stock tax return, upon which the intangibles were questioned and thrown out by the Department, and for depreciation purposes on the fixed assets this one hundred and sixty-six thousand came to light.

Q. Did the representatives of the Company advise you then about this arrangement with the Government, and the adjustment of its tax matters?

[fol. 924] A. No, it seemed—I asked them about that, and they said the tax matters were handled out of the New York offices of the Texas Company.

Mr. Coates: The Texas Company?

A. They were mixed in with it. That is what I was advised at that time by Mr. Thorne.

Mr. Coates: That is the oil company?

A. I don't know whether oil, gas, or what.

Q. Did the officers of the Company furnish you that letter which you hold in your hand?

A. Yes, sir.

Q. What is said there in respect to that matter?

A. You want the whole letter, or just the paragraph——

Mr. Coates: That has been all introduced in evidence.

The Court: Is that the same letter signed by Mr. Stein?

Mr. Coates: Yes.

Mr. Bobbitt: Yes.

Mr. Coates: We object to it as repetition.

The Court: I think it is repetition; it is in there once.

Mr. Bobbitt: It is just to identify that item of one hun-

dred sixty-six thousand that he has interrogated the witness about, and I would like for him to explain it to the Court and jury.

[fols. 925-926] The Court: If the testimony is already in, we don't need him to explain it. If it is something new——

Mr. Bobbitt: It is just offered in connection with his testimony—just one paragraph.

The Court: The whole letter is in. The objection is sustained, as to reading the letter again, as it was read yesterday very carefully.

Mr. Bobbitt: It was not in connection with this item. I don't think it is clear to the jury, if the Court please, just the connection it has with his testimony.

The Court: Well, you can make it clear, but you can't introduce any part of it again.

Q. This letter, and the correspondence you have referred to, was furnished to you, at the time you were making this audit and set-up, by the officers of the Texas Border Gas Company?

A. The material was either furnished to me on the job or mailed to me in the San Antonio office, one way or the other. Some information Mr. Thorne mailed me.

Q. And all of the information that you have testified about, and all of the information that you set up in this exhibit, you acquired from the officers of the Gas Company and in their offices at Laredo?

A. From the books and records and information furnished by the employes or officers, whatever they are.

Mr. Bobbitt: I believe that is all.

* * * * * * *

[fol. 927] Leon O. Lewis, Jr., a witness for the Plaintiff, thereupon resumed the stand, and testified:

Cross-examination.

Questions by Mr. Coates:

Q. Mr. Lewis, you are familiar, are you not, with this company's method of accounting with respect to its operating revenues?

A. Yes.

Q. It is true, is it not, that where the company reads a consumer's meter and determines the amount of the bill and sends the bill, that amount of the bill is entered on the company's books as an operating revenue?

A. That is correct.

Q. And that that item stays on the books as an operating revenue whether the bill is paid or not?

A. That is correct.

Q. Then the amounts actually collected by the company from the gas and the services it sells and furnishes, are less than the revenues shown on its books, by the amount of the bills that it does not collect; isn't that true?

A. That would be true, as a general rule.

Q. Well, is it true in the case of this company's books?

Mr. Bobbitt: Let the witness answer the question.

A. If you mean, is the money collected from the consumers more or less than the money during that period charged, I do not know, because the accounts receivable [fol. 928] may be larger at one end of the year than at the other end of the year.

Q. I will ask the same question again; perhaps you didn't understand it: When a bill is rendered, that goes on the company's books as a part of its operating revenues, doesn't it?

A. Yes.

Q. And the amount of that bill stays among the operating revenues whether the bill is collected or not, doesn't it?

A. It does.

Q. And the operating revenues which you have included in your operating statements, reflect the amounts entered on the company books for bills sent to consumers, do they not?

A. That is correct.

Q. And to the extent that the amount of gas and service bills entered as operating revenues—to the extent that those bills are not paid, the company never collected the money, did it?

A. No sir, if the bill is not paid, the company never got the money for it.

Q. Then the operating revenues as entered on the books, overstate the moneys collected for service, by the amount

of bills for that particular accounting period not paid, do they not?

A. If you consider the revenues alone, it overstates the amount collected, but if you consider the item in expenses as charged off accounts, with the revenues, it is correctly reflected in the statement.

Q. True. Now, how is the ordinary accounting method, and the usual and customary accounting method of bringing [fol. 929] operating revenues in line with the actual amounts collected?

A. Any concern that does a credit business has an option of two methods that are considered as good sound accounting. The first of those methods is to charge to operations those accounts which are found to be uncollectible, and the second is to set up a reserve to take care of the uncollectible accounts. The reserve method is generally considered the better practice for the reason that at the end of any accounting period, the concern will have accounts on its books, some of which will not be collected, and at the close of that period the concern does not know which of those accounts will be collected and which of them will not be collected, so that it sets up a reserve in an amount which they anticipate will take care of the uncollectible items.

Q. Then when the accounts which prove to be uncollectible for that particular period are ascertained, is it likewise good accounting practice to adjust the reserve for that period to show the accounts which actually have not been collected?

A. Will you read that question? (Question is read to witness)

Q. In other words, to substitute the actual uncollectible items for the amount of the reserve set up to provide for uncollectibles?

A. As I stated before, it is generally accepted good accounting practice to charge to operations either the actual accounts charged off during the year; or a proper reserve provision.

Q. Will you read the witness the question? (Question is read)

[fol. 930] A. I answered that question when I stated it was good accounting practice to either charge to operations the amount of the items charged off, if you are on one basis, or the amount set up in the reserve.

Q. Which bears the closest relationship to the actual facts:—adjusting the reserve entry to show the actual uncollectibles or deducting the reserve set up to provide for uncollectible accounts?

A. Over a period of years, it seems to me, the best accounting practice would be to set up the reserve and then charge the items which are found to be collectible against the reserve because if you adjust that reserve to the actual charge-offs, you have no reserve at the end of the year to take care of the accounts now on your books which will not be collected.

Q. You set up this reserve currently by months, do you not?

A. It may be set up monthly or annually or semi-annually, whatever the operating policy of the company might be.

Q. Well now, for the accounting periods which you have reflected in Plaintiff's Exhibit No. 8, do the operating revenues therein shown contain accounts which have not been paid, and proven to be uncollectible?

A. For the year ended December 31, 1933, there is included in customers expense the amount that the company set up during that year in the reserve account.

Q. How much?

A. For the year ended December 31, 1933, there was set [fol. 931] up as a provision for bad debts and charged to operations in the Laredo district, $2,633.67. I have allocated to the city limits of Laredo the proportionate part of the amount which the gas sales within the city limits of Laredo bear to the total gas sales for the district; so that I have included in my exhibit as a provision for bad debts, $1940.75. Now, there was an additional reserve for bad debts set up in the San Antonio transmission district of $815.00. I have allocated no part of that $815.00 to the city limits of Laredo for the reason that the transmission system does not have any credit sales in the city limits of Laredo.

Q. Do you know whether the transmission system has any losses with respect to bad debts?

A. If they do; even if they have them, they could not arise within the city limits of Laredo, because they have no credit customers within that boundary.

Q. Now, in what account classification does this item of $1940.75 appear in your operating statement for 1933, as contained in plaintiff's Exhibit 8?

A. It is included in customers expense in the total of $14,145.74.

Q. I see; now, having included that item in this operating statement for 1933, haven't you, in another portion of this exhibit set forth the item on a page which you head as what you consider questionable items?

A. I have not.

Q. You have not. Well, have you done that with respect [fol. 932] to any of the operating expense accounts for the peariod 1933?

A. No, sir.

Q. Have you done that for all of the other periods which are set forth in Plaintiff's Exhibit 8?

A. For the first four years shown in the Exhibit, I have set forth on page 10 a summary of questionable items.

Q. Now, you have not done that with respect to the operating statement for the year 1933?

A. No, sir; I have not.

Q. Why?

A. Because the major portion of the items set forth in the questionable items, was not susceptible of any verification on my part in prior years, for the reason that not all of the charges but most of them originated on the books of the operating companies of the United Gas System group. My examination was confined to the South Texas Gas Company and the Border Gas Company for the first four yearly periods mentioned, and all I saw in support of those items was inter-company invoices, and I was not able or had no way of determining whether the items were proper or not.

Q. And when you came to United Gas Public Service Company, you had a different accounting situation, did you?

A. Much different.

Q. Are you content to let the operating expense items as set forth on page 1 of Plaintiff's Exhibit 8, and the amount thereof, represent your accounting judgment as to the oper- [fol. 933] ating expenses for this particular period?

A. Yes, and no. In connection with the general expenses allocated from the general office, the scope of the examination and the time I had to spend on it, I could not possibly go thru all of the affiliated companies of the United Gas System and all of the entries in the general expense accounts of United Gas Public Service Company. So that for those items, I have used the percentages of allocations that the company is now using, because I did not have the time to

get the information I would have to have to build allocation factors of my own. So that so far as the general expense, allocated from the Houston general office is concerned, I am still unprepared to say whether it is fair or unfair. I have just taken the only alternative I have in checking that $1,500,000.00 of expense.

Q. But, within the limits afforded by the time and the scope of your investigation, this represents your best judgment; that is, these operating expense items represent your best judgment in the light of the explanation which you have made, which you can give at this time and in this hearing as to the amounts and nature of these expenses?

A. With the exception of the general expense item as I have qualified it, they do represent my best judgment; and the general expense item represents a necessity, you might say.

Q. I see. Well, are you pursuing further studies at this time with respect to the general expense item?

A. I could not pursue that study without being in Houston [fol. 934] where the books of the company are located, and familiarize myself with the entire operating conditions of the United Gas Public Service Company, and all of its subsidiary companies.

Q. Then for the purposes of this hearing which is now in progress this represents the most and the best that you are able to do; is that correct?

A. As I stated, it represent- in my judgment the fair allocations to the city limits of Laredo, except for general expense, and that may be fair or unfair—I don't know about that, because I am not in a position to say about that.

Q. Now, with respect to the year ended July 31, 1932, Mr. Lewis, what amount of uncollectible accounts do you include in the operating expenses for that period?

A. $2,874.47.

Q. And is that included in the item of customers expense?

A. There is included in customers expense $2,773.64, and in general expense $100.83.

Q. Now, does that represent the reserve, or actual uncollectibles for that twelve months period?

A. That represents the reserve.

Q. And that is the reserve which was set up for uncollectible accounts for that particular period. Do you know what the actual uncollectibles were within that accounting period, Mr. Lewis?

A. I believe I have that information, Mr. Coates. I might add that during that accounting period, there were [fol. 935] charged off numerous accounts which had accumulated over a past period of as much as two years prior thereto; they had neglected to charge off accounts, and they just cleaned them out in that period, so the charge-offs were much heavier in that year than normally they would be.

Q. If you do not have that readily available, I will waive the question for the time being, and we can come back to it later. You can make a note of it and have it for us tomorrow.

A. During that period I know they charged off a lot of accounts for as much as two years back, and used up all the reserves and had to set up some more.

Q. Now, Mr. Lewis, I believe you have included in this amount of $2,773.64, I believe you testified, in your operating statement for the year ended July, 1932?

A. There is a total of $2,874.47—there are two items, one in customers expense and the other in general expense.

Q. That is the reserve set up for that period?

A. That is the amount charged on the company's books to general expense and customers expense for the provision for bad debts.

Q. And the actual uncollectibles for that period were in excess of those amounts?

A. Yes, although they all did not originate in that period; some of them went back as far as 1929 and 1930.

Q. Now, in your judgment as an accountant, does that reserve in the amount which you have stated, reasonably represent the amount of uncollectible accounts for the period?

[fol. 936] A. Well, as I stated, Mr. Coates, the company has been setting up certain percentages of sales for reserve for bad debts, and the amounts charged off in July, 1932——

Q. Well, I am now directing your attention to the reserve figure and not the actual figure.

A. I understand that, and I am trying to answer your question. You asked me for the opinion, if the reserve was fair or sufficient, or some such. Will you read the question?

Q. Well, what I asked you was whether or not you considered the amount set up in this reserve of $2,773.64 as being a fair and reasonable approximation of the uncollectible accounts for that period.

A. From past experience of the company, as I testified, the reserves that they had set up prior to July 31, 1932,

were not ample to care for the accounts they charged off during that year, and for that reason I am inclined to believe that the reserve as set up by the company is not excessive.

Q. Now, then, why did you include that amount in the heading of questionable items on page 12 of Plaintiff's Exhibit 8? Does that represent your judgment?

A. Yes, it is questionable in that in rate controversies it is an item that is subject to controversy, and in order that the Commission and the courts or whoever might review these exhibits might know the item was there, I set out in that schedule those items which in my opinion were subject to some controversy in a rate controversy.

[fol. 937] Q. Well now, not going into the matter of what is allowed or disallowed in rate controversies, but stating your judgment as an accountant, I believe your testimony has been that you do not regard that figure as excessive?

A. That is my testimony.

Q. And then it is your accounting judgment, that figure not being excessive, is properly included among the operating expense items?

A. Mr. Coates, you realize——

Q. I am asking you for your accounting judgment.

Mr. Bobbitt: Let the witness answer the question, Mr. Coates.

Mr. Coates: I am directing him to the character of the answer.

Mr. Bobbitt: You can not direct the answer. In other words, Mr. Coates asks the question, and if he doesn't start off just as Mr. Coates thinks he should start off, then he wants to stop him.

The Court: That is sometimes advisable for lawyers to do that, but I do not say that it is this time. Let me hear the question read, and I will tell you my view about it.

* * * * * * *

[fol. 938] The Court: Now, he can answer, I think, what his judgment is.

Mr. Bobbitt: He just started and spoke about two words and Mr. Coates stopped him.

A. About ninety-nine per cent of these questions can't be answered "yes" or "no".

Q. Well, I am not trying to pin you down to a "yes" or "no" answer, but I don't want you to get on to what is

proper for this Court or this jury to allow in a rate case. I am asking for your accounting judgment about a matter, Mr. Lewis, which is my concept of what is admissible testimony.

The Court: Listen: You forget what my judgment might be or the jury's judgment or anybody else's, but give your judgment about what ought to be done; that is what he is asking for.

A: I can't give that judgment except with certain qualifications, because this exhibit was not prepared to reflect the earnings of the company for the stockholders; it was not prepared for any purpose except to put figures before a Commission or a Court, and for that reason items which in my accounting practice I would say are fair charges to operations must be treated a little differently in that respect.

Q. Now, that is just your opinion about it?

A. Yes, that is my opinion.

Q. Now, in the revenues reflected in the operating state- [fol. 939] ment for the year ended July, 1932, there are amounts of bills sent but not collected, are there not, Mr. Lewis?

A. Well, not literally. Included in the revenues are the total amounts billed to the customers.

Q. Yes, sir.

A. Some of that may have been uncollected and some of it has been collected; some of it has possibly been charged off. But that amount represents the total amount charged customers.

Q. Represents the total amount charged to customers, and does not purport to represent the total and exact amount collected?

A. It does not.

Q. Then in your experience in examining the business transactions of concerns of this sort as reflected by their books it does include some accounts which have not been paid?

A. I am sure that it includes some amounts which have not been paid.

Q. Now, Mr. Lewis, in your testimony this morning you stated how you apportioned distribution system expense and transmission system expense. Can you gvie me, Mr. Lewis, the amounts included in the operating statement for the year ended December 31, 1933, which are distribution system expenses and so classified?—in other words, what I want you

to do is to separate by account classifications the amounts which you have consolidated in here as between distribution [fol. 940] and transmission expenses.

A. I will just take the items as they appear on the exhibit.

Q. That is all right.

A. Gas Purchases includes the transmission system expenses—I forget the exact title of the account—Account 113-20.

Q. Yes.

A. It is gas purchase expense on production. I forget the exact title name, but it is all gas purchases here, in the amount of $15,138.87, and in the distribution, Account 113-20, a credit of $141.77, gas used in operations.

Q. That is in company operation?

A. Yes, sir—making a net figure of gas purchases of $14,997.10. The next account, transmission system operations, includes transmission system operating expenses, Account 113-24, in the amount of $2,378.02, and gathering system expense in the amount of $133.67. Transmission system maintenance account in the amount of $1,645.39 is taken from the general ledger, Account 113-25, transmission system maintenance. Distribution system operations——

Q. Mr. Lewis, maybe I can shorten this thing.

A. I have the figure now.

Q. All right.

A. —includes distribution system operating expense, Account 113-26, in the amount of $10,806.90. Utilization operating expense, Account 113-31, $2.41. Utilization mainte- [fol. 941] nance, Account 113-31, $5.47, making a total of $10,814.78. Distribution system maintenance in the amount of $4,609.09 is Account 113-29. Customers expense is Account 113-32 in the amount of $14,145.74. That is all distribution system. Now, business expense in the amount of $2,805.19 is all distribution, Account 113—I believe 34 is the number of that—113.34. District general expense includes transmission system district general expense, Account 113-36 in the amount of $899.45. Distribution system district general expense, Account 113-36, in the amount of $8,183.06. I have given you the district general expenses of $8,183.06?

Q. Yes.

A. And $889.45, representing district general expense. Then the general expense allocated from the general office,

distribution system $14,504.89, and transmission system $3,877.99, and general maintenance allocated from the general office to transmission system $411.03, making a total of $27,876.42 general expenses.

Q. You didn't allocate that maintenance of general structures item as between transmission and distribution, did you?

A. No, sir; it is all transmission.

Q. All transmission?

A. The maintenance of general structures is, as I have it, all transmission expense. The taxes, I can't give you any account numbers on that, because I took the company's [fol. 942] analysis of taxes and allocated on the various bases discussed this morning; but distribution system taxes are $11,959.99; transmission system taxes, $1,933.07, making a total of $13,893.06.

Q. Now, Mr. Lewis, without taking the time to do it now, I wonder if you can take your operating statement, together with your work papers, for the period ended December, 1933, and in the same detail and by the same sub-account classifications as used in Defendant's Exhibit 3, which is the operating statement for the same period, put the amounts that you have included under each account in a parallel column with the amounts included in Defendant's Exhibit 3?—I mean over night.

A. I think I have done that. May I have a copy of Defendant's Exhibit 3, to be sure these figures are what they purport to be?

[fol. 943] Q. There it is. (Counsel hands copy of exhibit to witness.)

A. I have made changes of classifications either in my exhibit or in the defendant's exhibit. The total expenses and revenues and net are the same, but there may be some little switch in classifications here. Is that what you want?

Q. Yes; if you made a switch in classifications, point it out.

A. Now, let me be sure I understand what you want, before start this.

Q. All right. Now, what I want——

Mr. Bobbitt: Now, state again just what you want, Mr. Coates.

Q. What I want is for you to take the breakdown of operating expenses—the items shown on pages 2 to 5 of

Defendant's Exhibit No. 3, and state, first, by each account classification there the amount included in Defendant's Exhibit 3 and the amount included by you in Plaintiff's Exhibit 8.

A. On pages 2 and 5?

Q. Yes, for the period 1933—the calendar year.

Mr. Bobbitt: May I ask how much time that will take, Mr. Lewis?

A. Well, I didn't understand at first. It will take considerable time.

Q. I see.

A. I have just set the figures up in general account classification, but I had not made the——

[fol. 944] Mr. Coates: Well, the record already reflects that I have suggested that he not take the time to do that on the stand now, but if he can do it during the course of the evening, and hand it to us in the morning.

A. I don't believe I can give you that, Mr. Coates, because on some of those accounts I do not have the sub-account captions. I have just treated the general account classifications, and in some of the adjustments I have made I have not carried it to the sub-account captions, and I don't know whether I can do that or not.

Q. Well, will you do it as nearly as you can, and where you have got a lump, and not broken, why, show the lumps.

A. Well, I can give you the lumps now.

Q. Well, you have it broken as to some of these accounts, have you or have you not?

A. Not my allocations; I made my allocations in totals, and I would have to extend the percentage allocations of each separate item under the account named, in order to—I think I can give you that information on the taxes—that is, the information—the items on page 5, but I can't on the items on page 2.

Q. Well, can you give that information with reference to the transmission system expenses?

A. Not accurately, because the maintenance items that I have eliminated, I didn't undertake to eliminate them in sub-account captions here; I just eliminated them from the total account transmission maintenance.

[fol. 945] Q. For instance, do you show in your work papers the amount for superintendence, operating labor, which you included?

A. I have that figure in total only. As I say, I would have to run my percent allocations to Laredo out, in order to arrive at comparative figures to these.

Q. How about your operating supplies and expenses?

A. They are all just in exactly the same boat. I have allocated on the total of the accounts in the subcaptions, so that in every instance to get the comparative figures, why, I will have to run out the per cent allocations to the City of Laredo.

Q. Well, have you ascertained by analysis of this Defendant's Exhibit No. 3, for the twelve months' period ended December, 1933, and a comparison with Plaintiff's Exhibit No. 8, wherein the principal differences lie between those exhibits—is it in the top figures used?

A. Some of it would be in the top figures and some would be in methods of allocation, and some would be eliminations. As I said, I have made the comparison of the items shown on page 1 of Exhibit 3, but I have not made it of the subaccounts, for the reason that I did not extend those subaccounts in percentage allocations.

Q. Well, have you carried the analysis far enough so that in the case of each expense account as shown on page 1, you can state whether the difference between the figures [fol. 946] which you derived and the figures which are set forth in the Company's books are due to bases of allocation or eliminations, or both?

A. I think I can give you within a small figure the exact differences, if that is what you want.

Q. And what occasioned it?

A. Yes, sir.

Q. That is what I called for.

A. Well, why didn't you say so?

Q. If I can't get it in any more detail. If you have got it by just these main accounts, why, I will take it any way I can get it, Mr. Lewis.

A. O. K. Are you ready to start?

Q. Yes.

A. The first item of Gas Purchases shown by Defendant's Exhibit 3—we will call it Production Expense, shown

by Defendant's Exhibit 3, to be $21,111.61, in Exhibit 8 the corresponding figure is $14,997.10.

The Court: Pardon me just a minute. Is that Defendant's Exhibit 8 or Plaintiff's Exhibit 8?

A. Plaintiff's Exhibit 8.

Q. Plaintiff's.

A. The difference is $6,114.51. That difference is brought about, first, by a difference in the rate used for Gas Purchases in Defendant's Exhibit——

Q. How much is attributable to that, do you know?

A. I was coming to that.

[fol. 947] Mr. Bobbitt: He is telling you now.

A. Defendant's Exhibit 3 computed Gas Purchases at a rate of five cents per thousand cubic feet. I have used a rate of $.04257 per thousand cubic feet, or 4.257 cents.

Q. All right.

A. The testimony indicated that in Defendant's Exhibit 3 there was purchased for resale within the city limits of Laredo 355,623 M. C. F. The difference in that rate used is $.00743, which, applied to the volume of 355,623 M. C. F., gives us $2,642.27.

Q. All right.

The Court: Gentlemen, are we at a good place to stop.

The Witness: We will be in just a minute, Your Honor.

The Court: In just a minute?

The Witness: Yes, sir.

Mr. Fitzhugh: Mr. Lewis, the difference you referred to there in decimal figures was dollars, was it not?

A. Yes; it is seven hundred and forty-three one-thousandths of a cent, or seven-tenths of a cent.

Q. All right.

A. The difference brought about in here by the difference in the rate used is $2,642.27. Defendant's Exhibit 3 includes as purchased gas expense for that one-cent gathering charge in the Carolina-Tex field $3,422.53, which I have [fol. 948] not included in my Gas Purchases expense. There is an unaccounted for difference of $49.71——

Q. That is unaccounted for gas, or——

A. No, that is just the difference that I didn't locate.

Q. I see.

A. Making a total difference of $6,114.51.

Mr. Coates: Now, is this the stopping point you are talking about, Mr. Lewis?

The Witness: Yes, sir; this is it.

Mr. Coates: All right.

The Court: Gentlemen of the jury, I will ask you to retire for a few minutes.

(Jury retires from court-room.)

(Conference, off the record, between Court and counsel.)

The Court: Bring in the jury, Mr. Sheriff.

(Jury is returned into court-room.)

The Court: The reason I asked you to step out just then, gentlemen, was because I wanted to have a conference with the lawyers about whether to hold court in the morning or not. It had been our plan to hold court until noon to-morrow before recessing, but after talking with the attorneys for both sides, it is decided that we will now recess until nine o'clock next Thursday morning, which will be the 22d—Thursday, the 22d. —. You are excused.

(Thereupon, at 5:05 o'clock p. m., the case was recessed until 9:00 o'clock a. m., Thursday, March 22, 1934.)

[fol. 949] Thursday, March 22, 1934

Morning session: 9:00 a. m.

The Court: Are you ready, Gentlemen? Proceed.

L. O. Lewis, a witness for plaintiffs, resumed his testimony and testified as follows:

Cross-examination resumed.

Questions by Mr. Coates:

Q. Mr. Lewis, when we recessed you had just finished giving the amount of operating expenses shown in your operating statement for the calendar year 1933 attributable to distribution system operations and attributable to transmission system operations. Do you recall that?

A. Yes.

Q. And have you before you the total amount of operating expenses for the year 1933, exclusive of the well head price of gas attributable to distribution system operations?

A. Yes, I have that.

Q. And likewise the transmission system operations. If you give those two figures, identify them.

A. Do you want the top figure, or the amounts allocated to Laredo?

Q. Amounts allocated to Laredo—that is, exclusive of gas purchases expense.

A. I will give you the distribution system operations first. [fol. 950] Would you like to have the account numbers?

Q. No. All I want—you had given it by accounts, and I wanted the total, if you have it.

A. I will have to make a computation. * * * Total operating expense distribution system properties, exclusive of gas purchases, amounts to $67,022.74.

The Court: Repeat those figures.

A. $67,022.74.

Mr. Bobbitt: That is for 1933?

A. Yes, sir.

Q. Now, for transmission, likewise exclusive of your figure for gas purchases.

A. Total operating expenses of the transmission system properties; exclusive of gas purchases, $11,278.62.

Q. Now, I have requested you about the time we recessed to make a comparison between the operating expenses by accounts for the year 1933 as shown in Plaintiffs' Exhibit 8 with the operating expenses by accounts with as much break-down as you have, as reflected by Defendant's Exhibit 3, explaining the differences in so far as you are able to explain them.

A. May I have copies of the two exhibits, please, sir, Plaintiffs' Exhibit 8 and Defendant's Exhibit 3? (Exhibits handed to witness.) I believe I had completed the reconcilement of the gas purchase figures, had I not?

Q. Yes.

A. The next expense caption appearing in Defendant's Exhibit 3, page 1, is transmission expenses, $10,131.28. That [fol. 951] figure, in conformity with the book classification accounts, would have two sections: transmission system operations and transmission system maintenance. Refer-

ring to page 2 of Exhibit 3 for comparative purposes, I have considered the first six sub-accounts as transmission system operations and the remaining accounts under the section as transmission system maintenance, which conforms to the classification used on the company books. That reclassification gives us, then, transmission system operations $6,729.62 and transmission system maintenance $3,401.66. In Plaintiffs' Exhibit 8 transmission system operation is shown at $2,511.69 and transmission system maintenance $1,645.39. Those are the comparative figures.

Q. Yes, sir.

A. Now I will take each section separately to account for the differences. Transmission system operating expenses per Plaintiffs' Exhibit 8 amount to $2,511.69. On Defendant's Exhibit 3 the same item is shown as $6,729.62, or a difference of $4,217.93. In Defendant's Exhibit 3 transmission system expense has been included under the transmission system expense in the amount of $938.29. I believe those three figures will tie in with the total. The major difference in transmission system operating expenses is in the item of pipe line rentals included in Defendant's Exhibit 3, which I have eliminated in the preparation of Plaintiffs' Exhibit 8 for the reasons stated several days [fol. 952] ago.

Q. And that is the figure of $2,352.90?

A. That is correct. I have eliminated in the operating expenses pipe line rental paid for the entire year, whereas in Defendant's Exhibit 3 that pipe line rental has been eliminated only for two months, making a difference of $2,352.90. There is a difference in gathering system expenses of $804.62. The reason for that difference is that in Defendant's Exhibit 3 gathering system expense is allocated on the basis of three inch equivalent and lineal miles of pipe to the Laredo sector and from there on the basis of volumes of deliveries in the Laredo lines. That gathering expense, according to my understanding, is incurred in the Jennings field and according to the deliveries one and a half per cent of the Jennings Field gas was transported to the Laredo sector lines; whereas the method of allocation used in Defendant's Exhibit 3 of allocation on the gathering system expenses having been made upon lineal and three inch equivalent basis allocates 52.9 per cent to the Laredo lines. On the other hand, in allocating the

gathering charge in the Carolina-Tex. field of one cent per thousand cubic feet, one hundred per cent of the gathering charge was allocated to the Laredo district lines for the reason that all the gas was delivered to the Laredo lines, whereas in the Jennings area the allocation to gathering [fol. 953] system expenses was on the basis of three inch equivalent and lineal miles, allocating 52 per cent to the Laredo lines, whereas only one and a half per cent of the Jennings field gas was delivered to Laredo. That makes a difference in the gathering system expense of $804.62. In allocating the transmission system expenses there is a difference in the allocation factor of 3.08 per cent. Defendant's Exhibit 3 allocates that expense on the basis of three inch equivalent and lineal miles of pipe to the South Texas area and lineal miles and three inch equivalent pipe to the Laredo sector and on the basis of volume of gas delivered from there on to the city of Laredo, allocating a percentage of 9.72 per cent of the transmission district 70 operating expenses to the Laredo city limits. The method of allocation which I have used, as it was explained several days ago, allocates a percentage of 6.64 per cent to Laredo, a difference of 3.08 per cent. That percentage applied to the total District 70 transmission system operating expenses after elimination of the pipe line rental charge amounts to $1195.91. The total of the differences enumerated amounts to $4,353.45. The difference between the two exhibits is $4,217.93, leaving an unlocated difference of $135.50. The item of transmission system maintenance, the first difference there is in the elimination of replacement items which are not properly chargeable to operations for the reconditioning and re- [fol. 954] placing of transmission lines. In Defendant's Exhibit 3 $3368.67 has been eliminated from transmission system maintenance, whereas in Defendant's Exhibit 8——

Q. You mean Plaintiffs' Exhibit 8?

A. Yes, sir. In Plaintiffs' Exhibit 8 $33,646.17 has been eliminated, or a difference in the elimination of $537.50. The percentage of allocation used in Defendant's Exhibit 3 is 9.72 per cent. That percentage applied to the difference in elimination of $537.50 accounts for $52.24 of the difference. The difference caused by difference in allocation factors amounts to $903.59, which is 3.08 per cent of $29,337.57, the total transmission system maintenance of Dis-

trict 70 after the eliminations have been made. The difference in gathering system maintenance, which is explained exactly as that under gathering system operations, is $434.17, making a difference of $1490.00. The net differance between the two exhibits is $1756.27, which indicates an unlocated difference of $266.27. The difference in transmission system operations of $1,083.81 and in distribution system maintenance of $353.83 are occasioned by difference in allocation factors entirely, and Plaintiffs' Exhibit 8 includes more distribution system operation and maintenance expense than Defendant's Exhibit 3. Customers expense is only $9.20 difference, and I made no attempt to reconcile that.

Q. Much obliged.

A. You are welcome.

[fol. 955] Mr. Bobbitt: Those are the figures made and gotten up at the request of Mr. Coates before we adjourned last week?

A. Yes, sir.

Q. Now, Mr. Lewis, does that give——

A. I am down to the general expense section. I will have to look just a moment to find that.

[fol. 956] Q. I was thanking you, Mr. Lewis, for not attempting to reconcile a $9.00 difference.

A. I appreciate that. I will take up the Taxes next. I think I have those figures here.

Q. Now, taking these in order, you have covered down to Customer's Expense, have you?

A. I have finished with Customer's Expense, because there was only the $9.20 difference in that item.

Q. You are through Customer's Expense, and you are now skipping New Business and General, and are going to Taxes, with the idea of coming back.

A. I am coming back then, because I can dispose of Taxes quicker than I can the others.

Q. All right.

A. Defendant's Exhibit 3 shows the item of Taxes in the amount of $14,921.77; Plaintiffs' Exhibit 8 shows taxes of $13,893.06, or a difference of $1,028.71. All except about $25.00 of that difference is in the ad valorem taxes. Webb County taxes are shown in Plaintiff's Exhibit 8 at $3,770.76——

The Court: Is that Plaintiffs' Exhibit 8, or Defendant's?
The Witness: Plaintiffs' Exhibit 8.

A. And in Defendant's Exhibit 3 at $4,515.11. The City of Laredo taxes contained in the Plaintiffs' Exhibit 8 amount to $6,030.47,—making a total ad valorem taxes of those two [fol. 957] districts in Plaintiffs' Exhibit 8, $9,514.75, and in Defendant's Exhibit 3, $10,545.58, making a difference in those two items of taxes of $1,030.83; the net difference between the two exhibits is $1,028.71; that accounts without about $2.00 for the difference. Now, there are some small differences one way or another in all of these items, of small amounts, but I didn't attempt to show all of those.

Q. Well, what accounts for that difference of $1,028 odd dollars?

A. It is the difference in the method of allocation of taxes. The City of Laredo taxes in Defendant's Exhibit 3 have all been charged to operations within the City of Laredo, whereas in Plaintiffs' Exhibit 8 a proportionate part of those taxes, based on the number of meters inside the city and outside the city, has been allocated to operations outside of the city limits, for the reason that the General Properties, the General Office, the Intermediate Pressure Mains, and a good part of the Property located within the City of Laredo, are also used to serve consumers outside of the city. There is a net difference in the City of Laredo taxes of approximately $300.00.

Q. And what accounts for the difference in the Webb County taxes?

A. That also is a difference in the basis of allocation. [fol. 958] There are, as I said, some other differences in other taxation districts—small differences one way or another, which I have not attempted to reconcile. In allocating ad valorem taxes I have allocated Webb County taxes paid on transmission system properties to towns in Webb County, based on the volume deliveries at the town borders, allocating to the City of Laredo 67.71 per cent of the Webb County taxes paid. In distribution, on the distribution properties Webb County taxes have been allocated on the basis of the number of meters in Webb County—that is, allocating to each town in Webb County the proportionate part of the taxes paid on distribution system properties which the meters located within that town bear to the total meters in the district, and have allocated to the City of

Laredo 89.96 per cent of the Webb County taxes paid on distribution properties. I do not have the exact allocation percentages that have been used in Defendant's Exhibit 3; so I am not sure as to the difference in the percentage of allocation.

Q. Can you state the dollar difference due to the difference in bases of apportionment of Webb County taxes?

A. Yes, I have that figure.

Q. That is, you have stated the City of Laredo taxes difference is approximately $300.00. Now, I want the difference stated in dollars for the Webb County taxes.

[fol. 959] A. I believe that the figure I gave you a while ago for Webb County includes all County taxes allocated to the transmission—I just put it on the Webb County line here for comparison. The figure $4,515.11 which I gave as Webb County taxes, contained in Defendant's Exhibit 3, is not all Webb County taxes; it is the total State and County taxes paid on the properties in all the counties. So that the difference in all—instead of the difference in Webb County taxes paid, this difference I am giving you is the difference in all County and State taxes paid, which amounts *of* $744.35; and that difference is all due to a difference in percentages of allocation, because the top figure is the same in both instances.

Q. And did you allocate these taxes on transmission system properties to the markets located in the taxing area, or did you allocate it on the basis of meters or volume of deliveries at the city gate?

A. The transmission district?

Q. Yes.

A. Are you speaking of the State and County taxes now?

Q. Yes, sir.

A. The State and County taxes paid in Duval County have not been al-ocated to the City of Laredo; the State and County taxes paid in Starr County have not been allocated to the City of Laredo; and the State and County taxes paid in Zapata County have not been allocated to the City of [fol. 960] Laredo—

The Court: All that testimony was given the other day.

Mr. Coates: Yes, sir.

Q. My question was whether the apportionment had been of these distribution taxes to the markets, or rather these

transmission taxes to the markets located within the tax district.

A. Well, I was giving you this information first because there were certain County taxes that I had not allocated to Laredo.

Q. I see.

A. Webb County is the only County taxes on the transmission properties that I have allocated to the City of Laredo.

Q. Webb County?

A. And that tax has been allocated to the towns in Webb County on the basis of the volumes of gas delivered to the respective town borders.

Q. And none of that Webb County tax allocated to markets not located in Webb County?

A. No, sir.

Mr. Bobbitt: You didn't mention Jim Hogg, Mr. Lewis,—Jim Hogg County, about taxes.

A. None of the Jim Hogg County taxes have been allocated to Laredo. I may add that the reason that I did not [fol. 961] allocate the Duval County, Jim Hogg and Starr County taxes to the City of Laredo is that the transmission lines serving Laredo are not located in those counties; and in connection with the Zapata County taxes, the line from Jennings Field to Pescadito Junction, the southern end of that line is in Zapata County, but the gathering system and a short section of their transmission line are used principally for transporting gas to Monterrey. So that I have not allocated any part of the Zapata County taxes to Laredo. The greater part of the Jennings-Pescadito line is in Webb County; so that all the taxes paid on that section of the line have been allocated to the City of Laredo.

Q. All right; proceed with your explanation, Mr. Lewis.

A. The next item is New Business Expense. The New Business Expense shown on Plaintiffs' Exhibit 8 amounts to $2,805.19; the New Business Expense as shown by Defendant's Exhibit 3 amounts to $6,077.61, or a net difference of $3,272.42. In the Defendant's Exhibit 3 the item of $6,077.61 New Business Expense is made up as follows: Laredo District New Business Expense, $3,288.22; San Antonio District New Business Expense, $21.15; Houston General Office New Business Expense, $2,768.24. There is

included in Plaintiffs' Exhibit 8 only an allocated part of [fol. 962] the Laredo District New Business Expense. The San Antonio District is a transmission district, and could not have customers within the city limits of Laredo, and for that reason I have not included any part of the San Antonio District New Business Expense within the city limits of Laredo.

Q. That is the item of twenty-one dollars and——

A. $21.15. The Houston Office General Expense I have not allocated to Laredo for the reason that Laredo, being an old established town, should not share in New Business Expense to the extent that the new distributions systems that have been put in during the year. So that I feel that New Business Expenses of the Houston General Office should be allocated to those districts where new distribution plants have been set up during the period under review, or immediately prior thereto. Those two items account for $2,789.30 of the difference. The net difference is $3,272.42, leaving an unaccounted for or unlocated difference of $483.03, which is all due to difference in allocation factors.

[fol. 963] Q. All right; go ahead.

A. The next item is general office general expense, which is included on defendant's Exhibit 3 at $39,456.00. General office and general expense is shown on Plaintiff's Exhibit 8 in the amount of $27,876.42, or a net difference of $11,579.58. This difference is brought about first in the district general expense of the Laredo district. Defendant's Exhibit No. 3 includes $9,092.97, allocated to Laredo, whereas Plaintiff's Exhibit No. 8 includes $8,183.06 or a difference of $909.91. This difference is due entirely to difference in the allocation factors. The San Antonio district——

Q. I thought for general expense you used the bases of apportionment set forth in Defendant's Exhibit 2?

A. That is in the general office general expense, but not in the district general expense. The San Antonio district general expense allocated to Laredo in Defendant's Exhibit 3 amounts to $898.29 as compared to $899.45 in Plaintiff's Exhibit 8. In other words, Plaintiff's Exhibit 8 contains $1.16 more San Antonio general expense than Defendant's Exhibit 3. General office expenses I can not definitely tie down the differences until I have some information which has been requested, but I can give you the approximate figure.

Q. All right.

Mr. Bobbitt: Pardon me—when did you request that information, Mr. Lewis?

A. I requested it about ten days ago.

Mr. Bobbitt: And the gentlemen agreed to furnish it to [fol. 964] you, didn't they, and will furnish it, I am sure?

A. Yes, they will furnish it, but I have not received it at this time.

Q. What is that information?

A. Mr. Womack was asked to furnish the top starting figure of general expense charged to general expense on the general office books, account 113-38-2, and his adjustments to that total and his allocations, but I can give you the approximate differences here, as it is.

Q. All right; go ahead.

A. The transmission system general expense allocated from the Houston general office to the City of Laredo in Defendant's Exhibit 3, amount to $6,911.32. The Houston general office general expenses allocated to Laredo in Plaintiff's Exhibit 8 amount to $4,289.02, or a net difference of $2622.30. I have eliminated some general expense items in my allocation to Laredo which approximate that figure.

Q. Please state what they are.

A. I have eliminated from general expenses allocated from the general office of the transmission system—I will give you the net figures which have been allocated or would have been allocated to Laredo, had not the elimination been made, in order to reconcile with Defendant's Exhibit 3. I have eliminated law expenses in the amounts of $619.33 and $296.25 which represent the amounts cleared through the clearing accounts 150 and 154. I have eliminated management fees in the amount of $648.82. I have eliminated [fol. 965] valuation and regulatory commission expense in the amount of $440.66. Donations, in the amount of $36.53. Provision for uncollectible general office accounts, in the amount of $469.13. Another item of valuation and regulatory commission expense in the amount of $411.55. Compressor station expense in the amount of $139.22.

Q. Compressor station expense?

A. Yes, there are no compressor stations on the lines serving Laredo.

Q. And how much was that figure?

A. $139.22.

Q. This is for the year 1933?

A. Yes. There are some direct charges to account 113-38-2 after the clearings for additional general office bad debt reserves and legal expense, and I have eliminated the amount of $161.82.

Q. For both?

A. For those direct charges, yes. I do no- have the analysis here, but it is all provision for bad debts and additional legal fees that were set up after the books were closed. Then there are two items of franchise requirements, in the amounts of $15.86 and 65 cents, which I have eliminated. The total eliminations of the transmission district amount to $3,239.82. In Defendant's Exhibit 3 there was eliminated the item of provision for uncollectible accounts which on my computations would have been $469.13; so that my eliminations exceed the eliminations made in computing De- [fol. 966] fendant's Exhibit 3 in the amount of $2,769.69. The net difference in the transmission system general expense prorated from the general office amounts to $2622.30 so that all of the difference except approximately $147.00 has been accounted for.

I believe I stated that there was a difference of $8048.53 in the amount of distribution system general expense prorated from the general office. That difference is also explained principally by the elimination of certain items which I will give you. Law expense $1,745.19 and $1,551.28. Supervision and consultation, fees, $1,828.31. Valuation and regulatory commission expense, $1,238.47 and $1,079.80. Donations, $102.93. Provision for general office uncollectible accounts, $1,321.97. The total eliminations for the distribution system amount to $9,323.93. In the preparation of Defendant's Exhibit 3, there was eliminated from the general expense the item of uncollectible accounts, which under my computation would amount to $1,321.97.

Q. That is the general office?

A. Yes. Making a net elimination which was not made in Defendant's Exhibit 3 of $8,001.96, which accounts for all except $47.00 of the difference. I believe that concludes the explanation of differences.

Q. Now Mr. Lewis, you have been on the company's books, both at Laredo, San Antonio and Houston a number of times in the course of your work in connection with this case, have you not, sir?

[fol. 967] A. I don't recall that I have ever done any work in San Antonio or Laredo—well, I was in Laredo a few days too, but I spent considerable time in Houston.

Q. And during the course of your examination have you been refused access to any records which you knew were there and which you could see?

A. No, I was never refused any records that I thought were there. There were some things we could not find in those older records, but everything that was available, I am sure was made available to me.

Q. And have you been courteously treated at all times?

A. Yes.

Q. And as a matter of fact when you first came there, weren't you just given the free run of the books of the company?

A. Yes.

The Court: Is there any question about that, about the witness having been furnished any information he wanted to get?

Mr. Bobbitt: No, sir; your honor, there is not.

Mr. Coates: I don't know but what the implication of Mr. Bobbitt's question——

The Court: I don't believe they intended to make any implication, but if there has been or is I will then let you go into it.

Mr. Bobbitt: There has not been any such, I don't believe.

[fol. 968] The Court: I have not heard any.

Q. Now, Mr. Lewis, why did you eliminate from transmission system general and distribution system general the items of law expense?

A. Because the items of law expense were some several thousand dollars more than they have been in prior years, and I have connected that law expense naturally with the valuation and regulatory commission expense.

Q. Did you find that any of the law expenses distributed to these properties had not been actually incurred?

A. I did not even check to see whether they had been incurred or not.

Q. And why did you eliminate the valuation and regulatory commission expense items?

A. Because that is an unusual expense that would not normally be incurred every year.

Q. Did you attempt to ascertain the total amount of valuation and regulatory commission expense and law expense attributable to this rate controversy?

A. I did not. I might add, Mr. Coates, that that expense has been charged to a number of accounts on the company books, both capital and operating accounts, so that to determine the total that was paid for this particular case, I do not believe you would ever get it all together, and I believe that there will still be left in the accounts a considerable part of the expense of this case.

[fol. 969] Q. But did you make any attempt to first ascertain the total amount of law and regulatory commission expense which had been incurred in connection with this investigation, and then distribute that expense over a period of years?

A. No, sir; I have not.

Q. And do you know whether the amounts which you have eliminated here amount to say one-tenth or one-fifth of the total law and regulatory commission expense?

A. No sir.

Q. Incurred in connection with this investigation?

A. No sir.

Q. But as I understand it, what you have eliminated is all the law and regulatory commission expense which you found charged for this particular period?

A. In this particular general office account.

Q. In the general office account. Then you have made no attempt to do what is referred to in accounting parlance, to determine the amount of the law and regulatory commission expense and spread it over a period of years so it might be amortized by annual charges to operating expenses?

A. No. As I stated, that expense has been charged to numerous accounts on the books of the company, both operating accounts and capital accounts, and it would have required a considerable period of time to collect it all and determine just what the total is, and there is still in these accounts some of the expense attributable to this case.

Q. How much?

[fol. 970] A. I don't know how much, but there are items of traveling expense and some of the salaries of the gen-

eral office employees whose time has been devoted to this, and it would not be practical to attempt to collect it all.

Q. But you are unable to state how much is left in the operating expenses for this particular period which would be attributable to this particular investigation?

A. Yes, I am unable to say that.

Q. Now, isn't it a fact, Mr. Lewis, that that part of regulatory commission expense or valuation expense which was attributable to the making of the inventory of property in this case was the expense which was capitalized?

A. I don't know whether it would include all of the inventory expense or not, but I know there was a considerable portion of that inventory expense capitalized.

Q. And didn't you find the expenses attributable to mapping and inventory was capitalized on the theory that an inventory was a part of the property of the company?

A. As I stated, I do not know that the mapping and inventory expense was the portion that was capitalized. I know some part of it was capitalized, but I do not know what part was capitalized and what part was charged to operating expenses.

Q. You may have answered this question, but I will ask it once again and then leave it. You are unable to state whether the item regulatory commission expense and legal expense shown in this statement amount to less than or [fol. 971] more than one-tenth of the total legal and regulatory commission expense attributable to this investigation?

A. No, I can not answer that.

Q. And by the statement, I mean the defendant's Exhibit 3, being the operating statement for the year 1933.

A. I don't know what portion it would be.

Q. Do you regard it as proper accounting practice and recognized accounting practice to take an item such as regulatory commission expense, including both legal and other costs of a regulatory investigation, and spread that expense over a period of years and charge it to operating expenses in equal amounts over that period of years?

A. I consider it good accounting practice to take any unusual item and amortize it over a period of years, and I consider this an unusual item.

Q. Then if actually the amounts charged here for this operating period amount to, say one-tenth of the total regu-

latory commission expense in connection with this investigation, you regard that as in accordance with good accounting practice?

A. Well, I would not tie myself to one-tenth.

Q. Well, one-fifth?

A. Well, I would not tie myself to that, either.

Q. What period of years would you take?

A. That is, for rate purposes—that is a matter for the courts to decide.

Q. I agree with you entirely on that, and I am asking [fol. 972] you about the correct and approved accounting practice.

A. The correct accounting practice would be to charge it off over a specified period, and ten years would be somewhere in the neighborhood of the correct period to charge.

Q. Now, Mr. Lewis, you have stated in your testimony that you eliminated the operations—that is, the operating expense of the Jennings-Roma line; is that correct?

A. In connection with which exhibits?

Q. In connection with plaintiff's Exhibit 8 and the year 1933?

A. I attempted to eliminate in that exhibit everything except the expenses applicable to the city of Laredo.

Q. And have you in your working papers the transmission system expense which you eliminated which is attributable to the Jennings-Roma line?

A. Do you mean do I have my allocation of the total expense as to the various towns? I did not eliminate—that is, there was not a direct elimination. I have allocated part to Laredo and part to Monterrey.

Q. Mr. Lewis, what I want to know is for the year 1933, what are the operating expenses attributable to the Jennings-Roma line on your bases of apportionment?

A. The transmission system operating expenses, and this includes gas purchased, operating expenses and everything——

Q. No, I want it exclusive of gas purchased. Transmission system operations, maintenance and general and any other item of operating expense, exclusive of gas purchases.

[fol. 973] A. I will first enumerate the items to be included in the total: Transmission operating expense; transmission maintenance expense; district general expense;

taxes; gathering system expense; general office general expense; and maintenance of general structures.

Q. All right.

A. That represents the total transmission system expense allocated to the Jennings-Roma line, exclusive of gas purchases.

Q. That's right—exclusive of gas purchased.

A. The total is $49,518.37.

Q. Now, by accounts, if you please?

A. Transmission system operating expense, account 113-24, is $13,089.97. Transmission system maintenance expense, account 113-25, $9,057.21. District general expense, prorated, account 113-36, $1,059.77. Line rental, $13,800.00. Taxes, $3,802.95. Gathering system expense, $3,654.94. General expense, general office, $4,569.24. Now that item, I believe, is before any of the eliminations I mentioned while ago.

Q. You mean before any eliminations from the Jennings-Roma line——

A. Just a minute; I had better check that—No, that is after eliminations.

Q. After the eliminations are made?

A. Yes.

Q. Then that item is comparable to the items of transmission expense which you contain in your operating statement for the year 1933, for the lines serving Laredo?

[fol. 974] A. Yes. Now, maintenance of general structures was $484.29.

Q. Do you know what that maintenance figure is?

A. It is maintenance of the telephone system.

Q. Now one of your bases of allocation, I believe Mr. Lewis, or in several of your bases, you used lineal and three inch equivalent miles, didn't you?

A. I used that basis only in connection with the general expense prorated.

Q. Now, in using that basis of allocation, did you ascertain the lineal mileage of the Jennings-Roma line?

A. I simply took the mileage figures furnished me by the company.

Q. And what was that lineal miles of line from Jennings to Roma?

A. The transmission system of the old South Texas Gas Company is broken down into four sectors: the Monterrey

sector, lineal miles of 47.31, and three inch equivalent miles of 188.29.

Q. All right, now, what is the lineal and three inch equivalent mileage of the transmission lines in the Laredo sector, taking gas to the Laredo city gate?

A. The Laredo sector line as furnished by the company, the lineal miles is 78.97, and the three inch equivalent miles 178.79.

The Court: That is the Laredo sector of what line?

A. That is the lines designated as the Laredo sector, and which takes in all the lines which serve the City of Laredo.

The Court: All right; I understand it now.

A. Now, as I stated, I have used those allocation factors only in connection with the general expense.

[fol. 975] Q. And have not used them in connection with the transmission system operations and maintenance?

A. I have not.

Q. Why not?

A. Because I do not think there is any relationship in that particular district—apparently there was no relationship between the lengths of the line and the operating expenses.

Q. What basis of apportionment did you use for transmission system operations and maintenance in apportioning or distributing expenses—that is, transmission system operating expenses between the lines in the Laredo sector, and the Jennings-Roma line?

A. I allocated the operating expenses of the transmission lines in the South Texas area on the basis of the volume of gas transported. I did not make any segregation as between specific lines. My method attached to each cubic foot of gas transported its proportional part of the total cost of transporting the gas.

Q. And does the company on its books attempt to distribute the expenses as between these lines to which you refer?

A. There is no segregation on the books, as between the Jennings-Roma line and the Laredo line.

Q. Do you think it would be practical, as a book-keeping matter, for the company to attempt to do so?

A. I believe if the company had found it a practical thing to do, they would have done that. I am not familiar

[fol. 976] enough with the physical operations of the properties to say whether it would be practical or not.

Q. Well, from what you have been able to learn from your examination of these accounts, do you regard it as a practical thing to do?

A. It seems, from my examination of the accounts, that an employee may be used one day on the Laredo sector lines and another day on the Monterrey sector lines, and every other item of expense is handled in the same way, so that it would be necessary, if you were to keep it accurately, to allocate every man's time every day on some basis.

Q. And wouldn't that result in a large increase of expense?

A. Well, I don't know that it would. It presumably might increase your accounting expense.

Q. It would result in more book-keeping?

A. It would require more book-keeping.

Q. And more book-keeping normally means more book-keeping expense does it not?

A. Yes.

Q. Now, let me ask you this question: Suppose that Jennings-Roma line was ready to serve, but not sending down any gas at all. In your judgment, would transmission system operations and maintenance expense be incurred?

A. If you were not even using the line, but it was just there?

Q. No, ready to serve, but not sending down any gas.

Mr. Bobbitt: What do you mean by ready to serve?

[fol. 977] Q. I mean standing there ready to turn the valves on the well-heads and send down gas, but not sending any gas.

A. I can not say, but I can't see there would be any operating expense to the line if you were not using it at all.

Q. My question is, if the company was standing there, ready to serve—that is, ready to send gas down this Monterrey line at any time it was demanded, but was not sending any gas down that line, would the transmission operations and maintenance go on just the same?

A. I don't know whether they would or not.

Q. You don't know about that. Suppose that line was flowing reasonably full of gas; would there be a substantial increase of transmission system operating and main-

tenance expense over the amount of those two expenses which would be incurred if the line was ready to serve but not sending down any gas?

A. Read that question. (Question is read.) You stated in one instance it was reasonably full, and at the end of the question it was not sending any.

Q. I am asking you to make the comparison between the two.

A. One if the line was reasonably full, and if it was not taking any?

Q. Yes.

A. I don't know what the difference in expense would be.

Q. You are just unable to state about that?

A. I think there have been several witnesses interrogated along the same line.

[fol. 978] Q. But is it your testimony that in the case of these lines, the length of line to be operated has no relationship whatever to the proportionate amount of operating expenses incurred?

A. I would not say that it has no relationship whatever, but it has no definite relationship, and it might vary in different districts and under different operating management or practice.

Q. Is it your testimony that in the case of the operation of this line, the transmission system operating expenses would vary more directly in proportion to the volumes of gas that were passing through the line than they would in proportion to the length of the line?

A. I based my allocation factor, after a considerable study of all the known facts down there, in attempting to arive at a fair allocation factor, and a study of the transmission system operating and maintenance expense for a five year period, which shows a close a very close relationship between the volume of gas transported and the cost of operating and maintaining the lines in that particular area.

Q. Now, have you ever made a similar study in the case of any other gas transmission lines?

A. No, because I was interested in this particular district.

Q. I mean, ever in your experience, have you made a similar study?

A. If I had found, in some other district——

Q. Wait a minute—read the question please. (Question is read.)

A. I do not believe I have ever made a study of that kind on any other line.

[fol. 979] Q. Now, have you ever made a study with reference to transmission system maintenance expense, to see what factors govern the amount of that expense, other than in the case of this particular line?

A. No, sir.

Q. Now, Mr. Lewis, if you had found that this line was not transporting any gas down to Roma, would you then have put all this transmission system operations and maintenance expense on to the lines serving Laredo?

A. I don't know, Mr. Coates, what I would have done under different conditions. I would have had to review the conditions and weigh all the factors and then decided what to do.

Q. But don't you regard the possible correspondence between volume deliveries through that line and transmission system operations and maintenance in the particular periods, as purely fortuitous?

A. If it had been one year or two years, it might have been, but it would hardly be just an accident that those two items were so closely correspondent in a five year period.

Q. Then it is your statement that in connection with these lines, transmission system operating expense varies most closely in proportion to the volumes of gas put through that line?

A. It is my testimony that in this South Texas area, for the last five years the operating and transmission system expense of maintenance has varied more closely in proportion to the volumes of gas than any other factor that I could find.

[fol. 980] Q. And is it likewise your testimony that in the case of these lines, the transmission system maintenance expense would vary most closely in proportion to the volumes of gas put through that line?

A. In this particular district, yes.

Q. And do you know what are the operations which make or cause maintenance expense?

A. Maintenance expense, or that is the repair end of maintenance would be caused by any number of conditions.

Q. Well, has it got any relationship to the volume of gas that passes through the line?

A. In this particular area, as I have testified, there has been a close relationship between the two.

Q. But, just as a practical proposition, has the expense of maintenance on a particular line—is it a function of or is it related to the volumes of gas which have been passing through that line?

The Court: I believe he has answered that as nearly as the witness indicates he can, by telling you it is more closely related than any other factor he can find, in his judgment.

Q. Now, does gas wear out the line, as it passes through it?
A. I don't think it would wear it out appreciably.
Q. And isn't the amount of maintenance, that is, the cost of a particular maintenance job, very largely a function of the size or capacity of the particular line?
[fol. 981] A. It might be influenced by the size or the capacity but certainly the cost of maintaining lines would not be in direct proportion or ration to the capacity or size of the line.
Q. Suppose you had to put a new dresser coupling on a twelve inch line; would that cost more per dresser coupling than it would in the case of a six inch line?

Mr. Fitzhugh: May it please the court, we do not have any objection to counsel asking anything of this witness that an accounting witness may be expected to know, from a study of the books, but all these questions pertain to operations and are engineering questions and operations questions.
The Court: Well, I believe a six year old child can answer that question, and I don't believe it takes an expert engineer or an expert book-keeper either to answer that.
Mr. Fitzhugh: Would it cost more or what it costs to put on a dresser coupling is a matter of operations and not something shown by the books.
The Court: I expect it is shown by the books, if they ever put in any down there.

A. Will you read the questions? (Question is read.) The cost of the coupling would be more. As to whether or not it would be twice as much or three times as much, I don't know. The total cost of putting in the coupling would depend on how far you had to ship the coupling and how far you had to haul it after you got it there, and various other elements in installing it and it might or might not be in proportion to the size.

[fol. 982] Q. Would the cost of that maintenance expense of that coupling have any relationship to the volumes of gas passing through that line?

A. It might or might not.

The Court: I think that is an engineering question.

Mr. Coates: He has attempted here to set up a basis of apportionment of expense as between the lines in the Laredo sector and this line that carries gas down toward Monterrey, and distributing the transmission system operations and maintenance expense on the basis of volumes of delivery by those two lines, and has stated here that in his judgment the volumes of deliveries which pass through the respective lines bear a closer relationship to the amount of transmission system operating and maintenance expense than any other factor that he could find out. Now, it is likewise in the record that the company has apportioned that expense on the basis of the length of line and capacity of line, and this is in cross examination of this witness, to determine the reasonableness of those apportionment factors, as related to the rather simple facts which relate themselves to this character of expense and make this character of expense.

Mr. Bobbitt: Now, if the court please——

The Court: Wait a minute; just let me say this, and I do not intend to comment upon the testimony of this witness at all; but this witness has testified as to what, in his judgment, has happened.

[fol. 983] Mr. Bobbitt: On five years experience, yes.

The Court: You are asking him now what in his judgment might happen. He may not know anything about it. But, I am not making any objection. Mr. Fitzhugh made the objection to the previous question, but I will let him answer the question if no one objects now. I did let him answer that previous question; now on the next question, I simply said that looks to me like a question calling for engineering knowledge. If nobody else objects, go ahead; I don't object, if nobody else does.

Mr. Bobbitt: I just wanted to call the court's attention to the fact that he has testified, as the Court suggested, and he has made his allocations or estimates based on five years' experiences as to what actually has transpired, and as I understand it, is being interrogated about a theory, what might have happened. He is being asked to assume——

The Court: Not that might have, but that might probably in the future. However, if there is no objection, I have none. I thought Mr. Fitzhugh was objecting.

Mr. Fitzhugh: I was, and meant to object to all these questions that ask this witness engineering questions.

Q. Well, just to wind the thing up, Mr. Lewis, it is your testimony that in your judgment, based on your studies, that transmission system operations and maintenance expense vary as between the Jennings-Roma line and the lines leading to Laredo, most closely in proportion to the volume [fol. 984] of gas delivered through those respective lines?

A. My testimony was that the transmission system operating expense and the transmission system maintenance expense in the South Texas Gas Company area, have varied during the last five years in almost direct proportion to the volume of gas deliveries.

[fol. 985] Q. And what five-year period did you study, Mr. Lewis?

The Court: Wait just a moment. I didn't understand that. Didn't you say that that factor and its variation was more closely related to the volume of gas transported than any other factor you found?

A. Yes, sir.

The Court: That is what I thought you said.

A. But I have not testified as to segregating any two lines; I have taken the South Texas Area as a whole and have allocated that on the basis of volumes of deliveries, because the transmission system operating expense and maintenance expense during the last five years have varied more nearly in proportion with volume deliveries than any other factor.

Q. That is, for the total area?

A. The total area.

Q. Now, as between the transmission lines taking gas to Laredo and the transmission lines taking gas from Jennings to Roma, have the transmission system operations and maintenance expense of those two lines varied most closely in proportion to the volume of deliveries by those respective lines?

A. The operating expenses of those two sectors have not been kept separate; they are all in one set of accounts, and so far as I know there has never been any allocation or [fol. 986] any segregation of the costs of one line as against

the costs of the other. Had there been such segregations made, it would not have been necessary to allocate these expenses.

Q. But what you have done is to take the total of the transmission system operations and maintenance expense of that area, which includes the expense both of the lines leading to Laredo and the line leading from Jennings to Roma, and have found that the total amount of transmission system operation expense for all those lines through the years has varied up and down with the total volumes of gas delivered through those lines?

A. That is correct; and I might add that that district includes also a short line to Bruni, and another line to Hebbronville.

Q. All right. Now, you are using this basis of apportionment, however, in an attempt to get a fair and correct distribution of this character of expense, as between the lines leading to Laredo, and the line flowing gas in the opposite direction, that is, from Jennings to Roma, are you not?

A. I have testified, Mr. Coates—Read the question. I thought I had answered your question.

Q. All right; read the question.

(Thereupon the Reporter read the last preceding question [fol. 987] as follows: "Q. All right. Now, you are using this basis of apportionment, however, in an attempt to get a fair and correct distribution of this character of expense, as between the lines leading to Laredo, and the line flowing gas in the opposite direction, that is, from Jennings to Roma, are you not?")

A. I have used this method of allocation in order to attach a part of the cost, or attach the cost of transporting the gas and the gas itself wherever the gas goes. We have not only the line from Roma to Monterrey—I mean from Jennings to Roma, and the line—the Laredo sector lines, which delivers gas to six towns—no, four towns, the Bruni line and the Hebbronville line,—all of those expenses are contained in one set of expense accounts; there has never been any effort on the part of the Company to keep the expenses of any particular line separated from another.

Q. All right; let me ask you this question—I thought it was included in my other question; it may be that it is not.

You are using these volume deliveries bases of apportionment in an attempt to separate and segregate transmission system expense of the lines leading to Laredo from the transmission system operations and maintenance expense of all other lines in that area which do not serve gas to Laredo, are you not?

[fol. 988] A. The operating expenses are kept so as to include the Laredo line and the Roma line and the Hebbronville line and the Bruni line; so that if we are to determine what the operating profits are in Laredo we have to allocate a part of that total cost to Laredo.

Q. All right.

A. And for the purpose of making that allocation I have used the basis of the volume of gas deliveries at the various points in that area.

Q. And have done that for the purpose of separating transmission system operations and maintenance expense of the lines taking gas to Laredo from the transmission system operations and maintenance expense of lines not taking gas to Laredo, but operated by the same company?

A. I testified that I included in that allocation the line from Jennings to Roma, the Hebbronville line, the Bruni line, and the Laredo sector line.

Mr. Coates: Please read the question, Mr. Reporter.

(Thereupon the Reporter read the last preceding question, as follows: "Q And have done that for the purpose of separating transmission system operations and maintenance expense of the lines taking gas to Laredo from the transmission system operations and maintenance expense of lines not taking gas to Laredo, but operated by the same company?")

[fol. 989] Q. Now, I believe that is capable of a direct answer, Mr. Lewis.

A. I have answered the question as best I can, that I have allocated all of the transmission operating and maintenance expense in the South Texas area in the proportions that the volumes of deliveries bear, and that in that area there are included transmission lines fom Roma to Jennings, and the Hebbronville line and the Bruni line and the Laredo sector lines.

Q. Well, isn't the practical effect of your answer that you have applied this apportionment factor——

Mr. Bobbitt: Hasn't the witness answered that?

Mr. Coates: Well, I don't think he has.

Mr. Bobbitt: He is asking now the practical effect of his answer.

The Court: Gentlemen, if you are objecting to that question, the practical effect and so and so, I will sustain it. Now, the other question, as to whether he has answered it correctly or not, that is for the jury to know. He says he has answered it the best he can.

Q. But in this case you are attempting to segregate by means of an apportionment factor the transmission system operations and maintenance of the lines taking gas to Laredo from the transmission system operations and main-
[fol. 990] tenance of all other lines operated by the same company but not taking gas to Larredo, are you not?

A. No, I have said that I have taken all deliveries in the district, irrespective of where the lines were or where they were going, on the basis of volume deliveries. I have not attempted to segregate any particular line from another line, but I have attached to each cubic foot of gas transported through the lines in the South Texas gas area its proportional part of the total cost of operating the transmission lines.

Q. You mean an equal part of that transmission system operations expense to each thousand cubic feet of gas?

A. Yes, sir.

Q. All right. Now, in your studies over this five-year period have you attempted to ascertain whether the transmission system operations and maintenance of the Jennings-Pescadito line and the Carolina-Tex-Laredo line vary in proportion to the total amount of transmission system operations and maintenance in accordance with M. C. F. deliveries?

A. I have told you, Mr. Coates, that there was no segregation of the expenses as between the Pescadito-Jennings line and the Carolina-Tex-Laredo line and the Roma-Jennings line on the books of the Company—absolutely no figures to make a study of that kind upon.

[fol. 991] Q. And all you have done is to find that the transmission system operations and maintenance for all these lines over a period of years were higher when the volumes of gas deliveries were high, and were lower when

the volumes of gas deliveries were low,—isn't that correct?

A. I have found that, yes.

Q. And it is on the basis of that study that you say that in your judgment transmission system operations and maintenance should be apportioned to the line serving Laredo on the basis of volume of deliveries?

A. I have allocated, and I believe it is a correct allocation, to the city limits of Laredo a proportional part of the transmission system operations and maintenance expense, that proportion being based upon the percentage of the gas used in the City of Laredo to the total gas transported in the entire district.

Mr. Coates: Now, read the question again.

(Thereupon the Reporter read the last preceding question as follows: "Q. And it is on the basis of that you say that in your judgment transmission system operations and maintenance should be apportioned to the line serving Laredo on the basis of volume of deliveries?")

A. I have said time and time again that I have not allocated these expenses to any particular lines. We have four or five different sectors in that area, and I have not at- [fol. 992] tempted to allocate to the sectors. I have, however, allocated to the City of Laredo a proportional part of the transmission system operating and maintenance expense.

Q. Now, what per cent of the transmission system operations and maintenance expense incurred for the Jennings-Roma line, the Jennings-Pescadito line, and the Carolina-Tex-Laredo line have you allocated to the Jennings-Roma line?

A. I didn't understand the question.

Mr. Coates: Read it to him.

(Thereupon the Reporter read the last preceding question as follows: "Q. Now, what per cent of the transmission system operations and maintenance expense incurred for the Jennings-Roma line the Jennings-Pescadito line, and the Carolina-Tex-Laredo line have you allocated to the Jennings-Roma line?")

Mr. Bobbitt: What is that. He is going around in a circle there.

A. I can't quite understand. Read it again, please.

(Thereupon the Reporter read the last preceding question as follows: "Q. Now, what per cent of the transmission system operations and maintenance expense incurred for the Jennings-Roma line, the Jennings-Pescadito line, and the Carolina-Tex-Laredo line have you allocated to the Jennings-Roma line?")

A. I have allocated to the gas deliveries at Roma a pro-
[fol. 993] portional part of the total operating and maintenance expense, which includes not only the lines you have named, but includes the Hebbronville line and the Bruni line.

Q. Then, are you unable to state the percentage of transmission system operations expense of these three lines that I have named which you have apportioned to the Jennings-Roma line.

A. Because I don't have the figures for those three lines you named, separately.

Q. You have given us, have you not, as transmission system operations expense apportioned to the Jennings-Roma line the sum of $13,089.97?

A. How much?

Q. $13,089.97.

A. Yes, sir, that is the transmission operating expense incidental to the delivery of the gas delivered at Roma.

Q. Then you have likewise given us, have you not, the transmission system operations expense of the lines leading toward Laredo, at $2,511.69.

A. No, that is the part allocated to operations within the city limits of Laredo.

Q. And what is the total figure for transmission system operations of the lines taking gas to Laredo?

A. I don't have that total.

Q. You haven't got it in your work papers?

[fol. 994] A. No, sir, as I have testified, first, I had to start with the transmission operating expense of the San Antonio district, which includes the old South Texas Gas Company area, and lines from the Bruni field—well, that is the Southern Gas Company, from Refugio to New Braunfels and on north and around to Lockhart, somewhere in that neighborhood. First, I had to take the transmission system operating expense of that district and allocate it, first, as between the old South Texas Gas Company area and the old San Antonio are-, and after eliminating the

$13,800.00 pipe line rental for the year, I had a total expense in that San Antonio district of transmission system operations of $35,828.40.

Q. All right.

A. I have allocated that figure on the basis named several days ago as between the old San Antonio area and the old South Texas gas area.

Q. All right.

A. Allocating $19,046.38 to the old San Antonio area, and $16,782.02 to the South Texas area.

Q. All right; on what basis?

A. On the basis of the total of the two districts for the year ending October 31, 1932.

Q. All right.

A. The last year that they were separated.

[fol. 995] Q. All right; now, go on from there.

A. From that point on the part allocated to the South Texas area, in the amount of $16,782.02, was allocated to the various delivery points on the volume—on the basis of volumes of gas delivered.

Q. All right.

A. Allocating a certain part of it to the gas delivered at Roma for Monterrey, a certain part of it to miscellaneous, to various transmission lines, as well as a part of it to other towns, taking in the other six distribution points in that district, and allocating a part of it to outside the city limits of Laredo and a part to inside the city limits of Laredo. All of those allocations are based on the volumes of gas deliveries.

Q. All right. Now, then, of that total figure of $16,782.00 which you brought down to the old South Texas area, you have allocated $13,089.97 to the Jennings-Roma line, have you?

A. Yes, sir.

Q. And the remainder of that expense, amounting to three thousand odd dollars you have allocated to all the other lines in South Texas—in what you have designated as the South Texas area?

A. I have allocated it to the gas or charged it against the operations where the gas was delivered. I can not say definitely that I allocated it to the lines, because that was [fol. 996] not my method.

Q. I see. But there is about three thousand dollars of that $16,782.00 figure of transmission system operations

expense which is allocated, as you say, to the gas delivered to Laredo and to the gas delivered to such towns as Pescadito and the various towns along the Laredo-Carolina-Tex line,—is that correct?

A. I have——

The Witness: Read the question, will you, please?

(Thereupon the Reporter read the last preceding question, as follows: "Q. I see. But there is about three thousand dollars of that $16,782.00 figure of transmission system operations expense which is allocated, as you say, to the gas delivered to Laredo and to the gas delivered to such towns as Pescadito and the various towns along the Laredo-Carolina-Tex line,—is that correct?")

A. Well, that remaining part would cover the gas deliveries at Laredo, Hebbronville, Bruni, Mirando City, Oilton, and Aguilares.

Q. I see. And what is the—I said three thousand odd dollars; what is the difference between this $16,782.00 figure and the transmission system operations expense of $13,089.97?

A. $3,692.05.

Q. Now, what is the total volume of deliveries to all points in the South Texas area, which you use as a starting point in your basis of allocation?

[fol. 997] A. The total deliveries in the old South Texas gas area were 2,238,114 M. C. F.

Q. And what have you used as deliveries at Roma?

A. There was delivered at Roma 1,745,760.

Mr. Bobbitt: M. C. F.?

A. M. C. F.

Q. Leaving how much for volume deliveries to all other points?

A. 492,354 M. C. F.

Q. And what have you used for this period for volume deliveries at the Laredo city gate, or inside Laredo instead of the Laredo gate?

A. 317,071.

Q. Now, does the dollar figure $13,089.97 bear the same percentage relationship to $16,782.00 as the M. C. F. figure of 1,745,776 M. C. F. bears to 2,138,114?

A. You called one figure wrong. It is 1,745,760. Yes, that is the same.

Q. The same percentage relationship?

A. Yes, sir.

Q. What is that percentage?

A. Seventy-eight per cent.

Q. Now, refer to this map, which has been marked as Map 2. Now, what we have referred to as the Jennings-Roma line is the line running from Jennings Junction, or thereabouts, about forty-six miles to Roma on the Texas border; is that right?

[fol. 998] A. Yes, sir. I don't know the exact mileage.

Q. Well, that is the mileage—that is the lineal mileage that you gave?

A. That is approximately the figure 47.3 miles.

Q. And gas passing through that line goes approximately due south, does it not?

A. Yes, sir.

Q. And it is to gas deliveries through that line that you have apportioned these transmission operations of thirteen thousand odd dollars, is it?

A. Yes, sir.

Q. Now, the lines which lead in the direction of Laredo are the Jennings-Pescadito line from the point on the map shown as Jennings Junction, or thereabouts, to the point on the map shown as the Pescadito check meter, are they not?

A. Yes, sir.

Q. And the line leading from the check meter in the Carolina-Tex. field to the Laredo city gate?

A. Yes, they are used for Laredo.

Q. And it is to deliveries of gas through the Jennings-Pescadito line and the Carolina-Tex.-Laredo line that you have apportioned this transmission operation expense figure of thirteen thousand dollars, is it?

A. Yes, sir. Now, let me——

Mr. Bobbitt: What about the Bruni line?

A. That would get a part of the expense. That allocation [fol. 999] factor also includes gathering system expense in the Jennings field.

Q. How much?—well, we have that figure.

A. I gave that figure.

Q. Well, did that figure include any gathering system expense?

A. I don't believe it does, no, sir. No; gathering expenses are in a separate item.

Q. In other words, expressed as percentage of the total transmission system operation expenses for the three lines that I have named, 78 per cent of it has been apportioned to the gas from Jennings to Roma, and the remaining 22 per cent, without using fractions, has been apportioned to the gas delivered in the direction of Laredo on the Jennings-Pescadito line and the Carolina-Tex. Laredo line?

A. There would be a small amount in the Hebbronville line and the Bruni line.

Q. How much?

A. It is in the 22 per cent.

Q. What per cent?

A. It is very small; I don't remember what it is.

Q. Have you got it in your work papers?

A. I don't have it separated, no, sir.

Q. Well, it would be the proportion of gas deliveries to the other towns to the total deliveries in that area, would it not?

A. Yes, sir.

[fol. 1000] Q. And you have in your work papers somewhere the proportion of gas deliveries to those towns for the year 1933, have you not?

A. Yes, sir.

Q. Now, then, Mr. Lewis, have you likewise apportioned to gas delivered from Jennings to Roma 78 per cent, omitting fractions, of the transmission system maintenance expenses for the three lines, Jennings to Roma, Jennings to Pescadito, and Carolina-Tex. to Laredo?

A. Yes, sir.

Q. Would you state that in your judgment 78 per cent of the total transmission operations expenses is incurred for and attributable to the gas deliveries passing from Jennings to Roma?

A. I base my allocation on the study, as I have stated, which includes a period both before and after the Roma-Jennings line started.

Q. You have already explained fully how you did it. Now I am asking you whether it is your judgment that 78 per cent of that transmission operations expense is attributable to the operations and the gas from Roma to Jennings?

A. And I am giving you my reason for stating my opinion.

Q. All right. Will you state your opinion first and then your reasons?

A. I think 78 per cent is a proper amount to be charged to that line, because the study I have made, as I have told you, indicates a close relationship for those periods, [fol. 1001] and that covered both periods before and after the Roma-Jennings line was built and used, and at the time that the line started into operation it actually has increased the cost of delivering a thousand cubic feet of gas, or the cost of delivering a thousand cubic feet of gas to Laredo is considerably more after the Roma line was built and this method of allocation used than it was—What have I said?

(Thereupon the Reporter read the preceding answer of the witness.)

A. —before.

Q. All right. Now, Mr. Lewis, what is the transmission system operations expense per lineal mile of line which you have put against the Jennings-Roma line?

A. What is the question?

Q. The transmission system operations expense of that line per lineal mile?

The Court: Couldn't anybody figure that out by calculation?

[fol. 1002] Mr. Coates: Yes, but the figure is so striking that I wanted to use it on cross examination.

A. I have those figures and can compute the amounts.

Q. Well, it is 47.31 miles into $13,089.97, is it not?

A. It would be $13,089.97 divided by 47.31.

Q. Leaving out the decimal, give us the approximate figure.

A. I might add before I make this computation that the company's exhibit, or the basis upon which the Defendant's Exhibit 3 has been allocated, that instead of having a figure of $16,782.02 for the South Texas area, they would have a lesser figure than that—so that the comparison——

Q. But I am asking you about what you have done here—I am much obliged for the explanation, but——

A. You have asked me a number of times to make these comparisons. Now you want the total of the old South Texas area?

Q. No, I want transmission system operations expense, apportioned to the Jennings-Roma line, per lineal mile of line, and then I want it per three inch equivalent mile of line.

A. I have not checked these figures, and they may be in error, but I have for the Monterrey sector, $285.00.

Q. That is transmission operations, per lineal mile?

A. Yes.

Q. And per three inch equivalent mile, what is it?

A. I will figure that out.

The Court: We will take a recess of a few minutes, gentlemen, and you can figure that for him.

[fol. 1003] Following recess.

Q. Mr. Lewis, in order to save time, during the noon hour will you compute the transmission system operating expense, per lineal mile and per three inch equivalent mile, on the Jennings-Roma line, and also the transmission system operating expense per lineal mile and per three inch equivalent mile on the lines leading toward Laredo, or on all the other lines in that South Texas area, and will you make the same computations with respect to transmission system maintenance?

A. Yes.

Q. Mr. Lewis, it seems that both you and Mr. Womack eliminated from operating expenses an item of Thirty-Three Thousand some odd Dollars, attributable to reconditioning the Jennings-Pescadito line, the difference in the amount eliminated being approximately $500—is that correct?

A. Yes.

Q. Now, how did you make that elimination? Not why, but how? From what figure did you deduct it?

A. First I was furnished with a detailed list of materials charged to the maintenance account; not all of them, but I observed in my analysis that in particular months there were abnormal increases in the materials going into the maintenance accounts and so I selected certain items and asked that a detailed list be furnished me showing the nature of the work and where the materials went, and I started my basis of elimination from those material reports.

[fol. 1004] Q. I understand that you gave a figure of Thirty-Three Thousand odd Dollars, but from what figure did you deduct that figure of $33,000 plus?

A. Just a minute and I will give you the whole story. I believe you asked me first how I computed the $33,000 figure?

Q. No, I asked you from what figure you deducted the Thirty-three Thousand Odd Dollars.

A. There was charged to operating expense, transmission maintenance in District 70, the San Antonio district, the amount of $62,983.74, and from that figure I have eliminated for the replacement and reconditioning of the lines $33,-646.17, leaving an adjusted balance of $29,337.57 before any allocations.

Q. All right, that is what I wanted to know. Now, Mr. Lewis, I believe in your direct testimony you stated that you found on the books of the company that the properties formerly owned by South Texas Gas Company, including the transmission lines serving Laredo and the Jennings-Roma line, had been transferred to United Gas Public Service Company?

A. Yes.

Q. And did you or did you not state the amount at which those properties were carried on the books of the South Texas Gas Company, prior to this transfer?

A. I don't believe I did.

Q. Did you or did you not state that after these properties, including the Jennings-Roma line and the Jennings-Pescadito line and the Carolina-Texas-Laredo line were [fol. 1005] transferred, that those lines were set up and evaluated on the books of the United Gas Public Service Company at $934,798.02?

A. I stated that the journal voucher taking up the properties on the books of the United Gas Public Service Company charged fixed capital account in the amount of $934,-000.00 some odd.

Q. And is it your testimony that all these properties were carried on to the books of the United Gas Public Service Company at only $934,000 plus?

A. I did not analyse all of the fixed property accounts of United Gas Public Service Company, but from the information furnished me by the accounting department and the construction accounting departments, that is the total value at which they were taken over. Then there was an addition to that cost of some $55,000.00 later in the year.

Q. What was the information furnished you, Mr. Lewis?

A. It was a transcript of the fixed capital accounts, as

affecting the old District 70 of the old South Texas properties.

Q. And did you go through that carefully?

A. The transcript as furnished to me?

Q. Yes.

A. It had the same balance——

Q. I say, did you go through it carefully?

A. It did not necessitate going through at all. It was there in schedule form of the items enumerated and I made no verification of it whatever.

Q. And did that item of $934,000.00 plus, include the [fol. 1006] Jennings-Roma line?

A. That was my impression. As I said, I asked them for this information in regard to all the old South Texas Gas Company properties, and that was the information furnished me, and I made no further verification of it, but it was my impression that it included all of the old South Texas Gas Company's properties.

Q. And I believe you stated that the Jennings-Roma line—the cost of that line showed on the books of the South Texas Gas Company at $848,232 and some cents?

A. That was the first journal voucher, setting up the cost, and there were some later additions to it.

Q. Have you a description of that journal voucher, a copy of which was furnished to you, showing this entry of $934,000?

[fol. 1007] A. The description on the voucher setting up the properties recites that it is "to record acquisitions of properties, assets, and assumption of liabilities of South Texas Gas Company, under agreement dated October 1, 1932."

Q. What is the number of that?

A. I have here "J 10-156.

Q. Could that be Number "J 10-157"?

A. It is possible that I might have the wrong number here. That is just a memorandum that I have on the working paper.

Q. Did you examine that Journal Voucher sufficiently to ascertain whether at the time these properties were transferred from the South Texas Gas Company to the United Gas Public Service Company whether the United Gas Public Service Company held any of the common stock of the South Texas Gas Company?

A. As I stated, I made no verification whatever of the Fixed Capital items.

Q. Did you ascertain whether at that time the United Gas Public Service Company likewise held bonds of the South Texas Gas Company?

A. I believe they did. I made no investigation along that line, though.

Q. Well, in the transfer of properties by a company which had outstanding in the hands of another company stocks and bonds in substantial amounts, what would be the proper accounting procedure in recording the transfer [fol. 1008] of that property?

A. Well, it might be handled in a number of different ways, depending on how the stock was carried on the books of the United Gas Public Service Company originally.

Q. Well, suppose it was carried in its Capital account?

Mr. Bobbitt: Are you testifying as to what you actually found out about this, or is it some supposition as to what was done or should have been done about the stocks and bonds?

A. I think I was asked the question of what would be the normal way to take up the properties——

Mr. Bobbit-: That is just a supposition about how somebody would have handled the business. I am objecting to his asking him how he supposed they did it, or what they should have done.

The Court: The objection is sustained.

Q. Did you ascertain whether the United Gas Public Service Company held any of the common stock of the South Texas Gas Company?

A. No; I did not.

Q. Did you ascertain whether the United Gas Public Service Company held any of the bonds of the South Texas Gas Company?

A. I am sure they held some of them, although I did not make any investigation to ascertain the amounts.

[fol. 1009] Q. You say you examined the voucher in all its parts?

A. No; I didn't say that I examined it in all its parts; I said "a copy here with this voucher reference on it."

Q. Does the copy that you have disclose any common stock of the South Texas Gas Company?

A. There is an item here of re-acquired credits. I did not attempt to reconcile the Journal entries.

Q. What does your copy show there with reference to common stock of the South Texas Gas Company held by United Gas Public Service Company at the time of the transfer of these properties?

A. There are not entries to capital stock reflected in this entry.

Q. What does it show with reference to the six and a half per cent first mortgage bonds of South Texas Gas Company held by United Gas Public Service Company?

A. There is an item on this journal voucher, a credit to long-term debt of $3,715,000.00. I don't know whether that is assumption of the old South Texas Gas Company bonds, or what the nature of it is.

Q. Is it your testimony here that the properties of the South Texas Gas Company were written down and entered on the books of the United Gas Public Service Company at $934,798.02?

A. It is my testimony that at the time the properties were transferred they were charged to the Fixed Capital account on the books of the United Gas Public Service Com-
[fol. 1010] pany, as per the Journal Voucher, $934,798.02.

Q. And you give that as the result of your examination?

A. It is also the same figure reflected in the transcript of the account furnished to me, which purported to reflect all of the properties of the old South Texas Gas Company.

Q. It is your testimony here from your examination of this Voucher that this property was set up on the books of the United Gas Public Service Company at $934,798.02?

A. The voucher that I have seen and the transcript furnished me indicated that was it. There might have been some records that I did not see.

Q. You say that your notes there show no bonds?

A. I said that there was a credit on this Journal Voucher to long-term debt of $3,715,000.00. I don't know whether that is the old South Texas Gas Company's bonds that were assumed, or whether it was some additional bonds issued, or what. I made no effort to verify or analyze the entry, and when I asked for the reconcilement between the figures I was advised that such reconcilement was not available.

Q. Who advised you that?

A. I was advised that by the Accounting Department, and in going over this, particularly when I saw this entry and could not see through it all, I went to Mr. Womack, whom I assumed had gone over the same accounts.

Q. Were you shown Journal Voucher J 10-157?

A. I don't know whether I was or not. If I saw the [fol. 1011] voucher I might know whether I had seen it.

Q. I will ask you whether this purports to be a copy of the voucher (handing paper to witness)?

Mr. Bobbitt: Have you the original, Mr. Coates?

Mr. Coates: I think so. This is not the original that I am showing him. I don't know whether we have the original here or not, but we will get it.

The Court: It is now twelve o'clock. We will recess until two o'clock.

(Thereupon, at 11:58 o'clock A. M., a recess was taken until 2:00 o'clock P. M. same date.)

[fol. 1012] Thursday, March 22, 1934

Afternoon Session: 2:00 P. M.

L. O. Lewis, recalled for further Cross-examination, testified as follows:

Cross-examination continued.

Questions by Mr. Coates:

Q. Mr. Lewis, will you now give us the Operations Expense per lineal mile for the Jennings-Roma Line for the year 1933?

A. I did not have time to compute that, Mr. Coates. I was detained here about thirty minutes after Court recessed at noon.

Q. Did you make any of the computations that you were asked to make with reference to transmission system operations and maintenance expense?

A. You mean per lineal mile and three-inch equivalent?

Q. Yes.

A. No; I have not had time to make those yet.

Q. Now, Mr. Lewis, since the noon recess have you any explanation to make, other than that contained in the record with reference to your testimony with respect to the figure of $934,798.02, which you identified as the amount set up on the books of the United Gas Public Service Company, representing the book costs of the transmission properties [fol. 1013] formerly belonging to South Texas Gas Company?

A. I have no other explanation to make, other than the transcript furnished me of the properties purporting to be the old South Texas area contained that figure, and in support of that I have testified that the Journal Voucher made at the time the properties were transferred charged the Fixed Capital Account with that amount.

Q. Did the transcript and this Journal Voucher indicate to you, using your judgment as an accountant, that that was the value of these properties fixed by the United Gas Public Service Company on its books?

A. No; I don't know whether that was the amount set up for appraised value, or the amount purporting to be the costs, or addition to costs; and as I testified, I made no attempt to verify the item at all.

Q. Is it your testimony that it is either an appraised figure or the amount set up as costs?

A. It is my testimony that that is the amount that was charged to Fixed Capital at the time that the properties were transferred.

Q. And the entire amount?

A. That is the total amount that was charged at the time the properties were transferred, with the exception there was some fifty-five thousand dollars charged later.

Q. Now, you have included in your operating statement for the year 1933 one hundred thirty-three dollars and some [fol. 1014] cents for gathering system expense. To what gathering system is that one hundred thirty-three dollars attributed?

A. That is an allocation—there is carried on the books of the United Gas Public Service Company accounts Gathering System Operations and Gathering System Maintenance in the Beeville District. That District is further broken down on the Company's books to areas. In the Bruni Area of District 15 there is a total gathering system operating and maintenance expense of $3,850.99. I inquired as to what particular fields were located within the Bruni

area so designated on the Company's books, and the information I received was that the fields in the Bruni area were the gathering lines located in the Jennings Field; and I have allocated to the City of Laredo the proportionate part of the total Bruni Area gathering expense which the volumes of gas delivered to the City of Laredo bear to the total volumes gathered in that district.

Q. Have you anything in this operating statement for the year 1933 for gathering expense for the Carolina-Tex field?

A. No.

Q. And the price of gas which you set up—or which you use as a basis for computing gas purchases in the net amount of $14,997.10, that is the price paid to the well-owner for gas at the well head, is it?

A. Yes, sir. Well, not in all cases to the well-owner. Some of that gas was bought from affiliated companies, [fol. 1015] and I don't know whether they buy it from the well-owner and sell it to the United Gas Public Service Company or not; but there are two wells in the Carolina-Texas field that gas was bought from Southern Gas Utilities, and I am not sure they are the well owners.

Q. How many wells in the Carolina-Tex field, other than these two wells, did you use in this computation?

A. I have a total of nine wells.

Q. And what well head price did you use for the two wells which you designated as Company-owned wells?

A. I used a price of four cents on a 2 pound 14.7 pressure base,—one of the wells, Southern Gas Utilities A. C. de la Garza Number 1, a rate of four cents on a pressure base of 2 pounds 14.7; and the other one, Southern Gas Utilities Charles Webster Number 1, a rate of four cents, on a pressure base of 2 pounds 14.4.

Q. For the other seven wells you used the price paid the owners of those wells, did you?

A. Well, the price stated there is the price which the gas is billed to United Gas Public Service Company; and on the other wells I used the price at which the gas was billed.

Q. Do you know how the gas gets from these well heads into the main transmission line leading to Laredo?

A. Presumably through a gathering system.

Q. Have you included any expenses in this operating statement for that gathering system?

A. I have not, unless some of that district is included in [fol. 1016] the Bruni area.

Q. You ascertained, did you not, that none of that district was included in the Bruni area?

A. No; I just asked as to what areas, or what fields, were in the Bruni area, and was told it was the Bruni field; and I made no independent investigations to determine whether that was true or not.

Q. You are not absolutely certain whether some of this gathering expense is not included in this hundred thirty-three dollars?

A. No; as I stated I took the Bruni area of District 15 gathering expense to be the gathering expen-e of the Jennings Field.

Q. Do you know what is the charge for gathering expense for gas gathered in the Carolina-Tex Field for 1933, as reflected by the Company's books?

A. One cent per thousand cubic feet.

Q. How much is that in dollars?

A. I did not make the computation. There was gathered in that field on the contract pressure base a total of 500,364 M. C. F.

Q. Have you made any verification of the figure reflected in Defendant's Exhibit 3 of $3,422.53 to determine whether that is the application of one cent per M. C. F. contract price for volumes for delivery inside the City of Laredo?

A. I made a computation using the volume delivery that I gave you a few moments ago, and applied the one cent gathering charge and the allocation factor to the City of [fol. 1917] Laredo used in Defendant's Exhibit 3, and reconciled within a few dollars of the amount shown in Defendant's Exhibit 3, so that I am satisfied that the item of—$3,422.53, is it not?

Q. Yes.

A. So that I am satisfied that the item of $3,422.53 does represents the one cent gathering charge allocated to the City of Laredo.

Q. Mr. Lewis, didn't you testify before the Commission that if the gathering expense for the gathering of gas in the Jennings Field was eliminated and not charged to Laredo that, then, in your judgment, the gathering expense in the Carolina-Tex field should be included in an operating statement for Laredo?

A. No; I didn't make that exact statement.

Mr. Bobbitt: If he is going to interrogate him about what he testified to a year or two ago, I think he ought to be furnished with a transcript.

The Court: Yes; unless his recollection is clear.

A. I think that I recall my testimony before the Commission was that if the Laredo lines were to be charged a gathering charge in the Carolina-Tex Field, then it would be proper to make the same charge in the Jennings Field for the gas going to Monterrey, and credited back against the Laredo line operations. That is the substance of my testimony; it may not be exact.

[fol. 1018] Q. That is your best recollection about your testimony, is it?

A. Yes.

Q. Now, is the elimination of the amounts charged and paid for the use of the gathering system in the Carolina-Tex Field, does that represent your own judgment, Mr. Lewis?

A. Yes; after taking all the facts that I could find into consideration, I eliminated the gathering charge paid to the Southern Gas Company in the Carolina-Texas Field.

Q. To what volumes of delivery, if you used that basis, is this hundred thirty-three dollars of gathering expense which you have included, attributed?

A. That is the proportionate part of the Jennings Field gathering expense applicable to the gas delivered to the Laredo lines.

Q. And what volumes?

A. I took the total well deliveries in what you have been designating as the West Jennings Field, and found those deliveries to be 938,813 M.C.F. Now, there were some wells on the east side of the Junction from which gas was taken, but I was not positive that some of that gathering expense was not charged into the Agua Dulce District, so that I included only the wells on the west side of the field, 538,813 M.C.F. Of that amount, 27,431 M.C.F. was delivered to the Laredo lines, so that I have allocated that proportionate part to the Laredo Sector lines.

[fol. 1019] Q. That is, allocated the part that 27,431 M.C.F. bears to this figure of 538,813 M.C.F.?

A. Yes, sir.

Q. Gas delivered inside the City of Laredo for the year 1933 was what volume?

A. You mean of that 27,000?

Q. No; total deliveries inside the City of Laredo for the year 1933?

A. There was delivered to the Laredo City gate for resale within the City limits of Laredo 317,071 M.C.F.

Q. Then, even if we assume all this 27,431 M.C.F. got to the Laredo City gate, that is the maximum amount of deliveries at the City of Laredo gate that bears any gathering charge, is it not?

A. Yes, sir.

Q. In your direct examination, Mr. Lewis, you stated that in connection with volume sales to various classes of consumers inside the City of Laredo, and particularly residential consumers for the year 1933, and the twelve months ended July, 1932, you would get and put into the record the average number of residential meters for each of those periods; have you done that?

A. I have computed it; but I believe Mr. Elrod has those figures; I don't have them with me.

Q. You haven't them in your work sheets?

A. I don't have them with me; I have them at the hotel.

[fol. 1020] Q. Mr. Lewis, why didn't you make an operating statement for the calendar year 1932?

A. Why didn't I?

Q. Yes, sir.

A. Because the period ending July 31, 1932 was selected for the purpose of the hearing before the Railroad Commission, and there was no further examination made until about the first of December, 1933, and we took the last twelve months period available at that time, and did not use the calendar year ending December 31, 1932.

Q. And you have made no examination of the Company's books for the period from July 31, 1932 to the end of 1932, have you?

A. Yes; in connection with the year ended October 31, 1933, I examined the last two months of 1932.

Q. Now, for the purposes of identification, if one would want to know the operating expenses attributable to transmission system operations, in your operating statement for the twelve months ended July, 1932, that can be found on page 5 of Plaintiff's Exhibit 8, can it not?

A. That is correct.

Q. And if one wants to know your operating expenses attributable to distribution system operations for the twelve

months ended July, 1932, that can be found on page 9 of Plaintiff's Exhibit 8, can it not?

A. Yes, sir.

[fol. 1021] Q. On direct examination, Mr. Lewis, you gave some testimony with respect to amounts paid to one Banks Moreland for sand-blasting pipe; do you recall that testimony?

A. Yes; I remember that.

Q. And likewise to one Rodriguez, I think, for some work done in connection with the reconditioning of the Jennings-Pescadito Line; is that correct?

A. Yes, sir.

Q. What operations did you say that Rodriguez performed in connection with that reconditioning?

A. The cash disbursements reports indicate that Rodriguez did some ditching and back-filling.

Q. Now, there has already been some testimony in the record, and I anticipate there will be some more given by the engineers, for an account classification known as Ditching and Back-Filling. Have you made any comparison or analysis for the purpose of determining whether the operation, or what the operations are included by Mr. Greene for ditching and back-filling?

A. No, sir; I have not.

Q. And have you made any comparison with any of the figures to be introduced in evidence by any engineering witnesses on behalf of the City of Laredo with respect to the operations included in a Construction account classification Ditching and Back Filling?

A. I am not familiar with the engineering exhibits at all.

[fol. 1022] Q. Did you make any analysis or were you able to make any analysis to determine the operations and costs included in this amount paid to Rodriguez?

A. No; all that I can give you in that connection is the information contained on the Cash Disbursements Report.

Q. And you did not make what is sometimes termed a Construction Cost analysis of those vouchers for the purpose of determining the character of costs contained therein.

[fol. 1023] A. I made no analysis at all, except to note that a certain cash disbursements report would show there was paid to Rodriguez for ditching and back-filling four cents for a certain number of feet.

Q. Then you are unable to state whether that four cents per a certain number of feet contains each and all of the

elements contained in a like classification of construction expense given by Mr. Greene?

A. I am not even familiar with Mr. Greene's classification.

Q. And likewise the construction cost classification used or to be used by Mr. Elrod, engineer for the City?

A. I don't know what Mr. Elrod has in his classification.

Q. Now, in all your computations with respect to transmission expense, both in apportionments and distributing costs, have you included the Jennings-Pescadito line?

A. I haven't considered that line one way or the other in the allocation of expenses of the transmission system operations or maintenance.

Q. You say you have not considered it one way or the other?

A. Because I have allocated my expenses on the basis of volumes delivered at specific points, regardless of where it came from.

Q. Well, have you taken into account volumes delivered at points on that line?

A. On the Jennings-Pescadito line?

[fol. 1024] Q. Yes.

A. I have considered some 27,000 M. C. F. delivered from that line to the Laredo sector line at Pescadito Junction, and have also considered the volumes of gas delivered at Jennings Junction by that line for transportation to Roma.

Q. Now, in making such apportionments as you made on lineal and three inch equivalent basis, have you included that line in determining the amount of expense to be apportioned to gas delivered to Laredo?

A. I have used the lineal mile and three inch equivalent for the purpose of allocating only the general expenses.

Q. I understand that——

A. And have used for my mileage figures as distinguishing the Jennings-Roma line and the Laredo sector lines, the figures supplied by the Engineering Department, and I——

Q. And did you— Excuse me.

A. I don't know whether they have the Jennings-Pescadito line in there or not. I am assuming that it is included in that figure in the Laredo sector, although I am not sure.

Q. You didn't find out about that?

A. No, sir.

Q. Now, from New Business Expense I believe you have eliminated all new business expense shown on the books of

account either of the district or the general office, have you not?

A. No, I have— Are you speaking of the transmission [fol. 1025] or the distribution, or both?

Q. I am speaking of both.

A. I made no adjustments nor eliminations to the new business expense of the Laredo district, but have allocated the total district new business expense, a portion of it to Laredo.

Q. Now, that is the Laredo distribution district?

A. That is the Laredo distribution district——

Q. All right.

A. —and is not the San Antonio transmission district. I did not allocate that to the city limits of Laredo.

Q. That is, you did not allocate any new business expense of the San Antonio transmission district to the City of Laredo?

A. No, sir.

Q. Did you distribute any part of the general office new business expense to the City of Laredo?

A. No, sir.

Q. Either for transmission or distribution?

A. I did not allocate any of the general office new business expense to the City of Laredo.

Q. Now, did you make any analysis to determine what items of operations creating new business expense were included in the figures which you did leave in the Laredo operating statement?

A. That I did leave in?

[fol. 1026] Q. Yes; that is, how much for advertising, how much for salaries, and how much for rentals, and so forth.

A. I have that information here, if I can find it. (Witness refers to data.) I have a summary analysis of new business expense for the district, but I have not allocated each of the sub-accounts to Laredo. I have just applied my allocation factor to the total, so that the figures I am giving you are the total new business expenses for the Laredo district.

Q. And that is the Laredo distribution district, which includes which distribution systems?

A. It includes the distribution systems at Laredo, Aguilares, Oilton, Mirando City, Bruni, Hebbronville, and Roma.

Mr. Bobbitt: What are those figures?

A. There is included in this account: rentals, $162.50; advertising supplies and expense, $1,743.86; new business management and salesman salaries and expense, $1,688.93; demonstrations, $69.25; other new business expense, $714.68; less transfer to merchandise and jobbing accounts, $390.60,—making a net of $3,988.62. That is the Laredo district total new business expense.

Mr. Bobbitt: What is that total—what is the amount of that total?

A. $3,988.62.

Q. Now, do you know how that figure for rentals was obtained?

[fol. 1027] A. I don't know how it was obtained; it is a part of the rent each month charged to this new business department, and the rest of it is charged to other departments.

Q. On what basis, do you know?

A. I don't know.

Q. Do you know whether it is on the basis of floor space occupied by the new business department?

A. I don't know what basis is used.

Q. And this item of advertising, $1,743.86, do you know what was the advertising appropriation for advertising in the Laredo papers for the year 1933?

A. No, sir, I don't.

Q. Have you made any attempt to analyze that?

A. No, sir.

Q. Do you know whether more or less was spent for advertising inside the City of Laredo than the figure $1,743.86?

A. No, sir, I don't know.

Q. Do you know——

Mr. Bobbitt: Are you separating that. Do you mean advertising, now, for merchandising or the ordinary gas business, Mr. Coates? You don't differentiate there.

Mr. Coates: I am asking him about advertising.

Mr. Bobbitt: Well, what kind of advertising? Advertising a merchandising account or for the promotion and de-

[fol. 1028] velopment of new business for the use of gas?

Mr. Coates: Well, I assume if he doesn't know about any of these advertising figures he doesn't know what is contained in any of them. If he knows what the amount of the advertising appropriation for any purpose was in Laredo for the year 1933, I assume we can get down to your question.

Q. Do you know what that figure is?

A. I don't know what the appropriation was.

Q. And do you know what the actual expenditure for advertising was in Laredo for 1933?

A. I know the amount charged for advertising in the Laredo district. Whether they spent more or less than that amount, I don't know.

Q. Do you know whether that includes all the advertising done in that district?

A. I don't know.

Q. Now, you know that in that account there is a credit to merchandising and jobbing of three hundred and ninety dollars and may be some cents. Do you know the reason for that credit?

A. Well, that is credited on the theory that a part of the new business expense should be chargeable against the merchandising and jobbing operations and each month a per- [fol. 1029] centage of the sales of merchandising and jobbing is transferred from this new business account to merchandising and jobbing expense.

Q. And that represents the judgment of the Company, or at least as reflected by its books, as to the amount of advertising expense attributable to merchandising and jobbing, or rather new business expense?

A. I suppose it is the judgment of the Company. That is the practice—the accounting practice.

Q. Now, do you know what were the activities of the general office new business department in the Laredo distribution district for the year 1933?

The Witness: Will you read the question, please?

(Thereupon the Reporter read the last preceding question, as follows: "Q. Now, do you know what were the activities of the general office new business department in the Laredo distribution district for the year 1933?")

A. Only in a general way. I wasn't in Laredo.

Q. Do you know whether any services were rendered or attempted to be rendered, at least, in that area by the general office new business department for that period?

A. No, I don't know.

Q. In the normal use of the term "new business expense", do you understand that, as an accountant, to mean expense

incurred solely to get new business, or expense incurred [fol. 1030] both to get new business and retain what business you have got?

A. Well, that account would be presumed to cover the Company's advertising cost, whatever the purpose of that advertising might be—the development of business.

Q. And that expense is incurred alike, is it not, to add new business and to retain the business you have?

A. I don't know what the purpose of the Company might be.

Q. Well, I am talking about in the ordinary accounting significance of the term.

A. Well, it would be hard to distinguish between expenditures paid for the purpose of acquiring new business and those paid for the purpose of keeping what business you have. I don't know whether you could draw any line or not.

Q. Well, I am not asking you to do that; I am asking you whether in the ordinary accounting meaning of the term that expense does not cover both those functions—that is, the function of adding new business or adding business to take care of the turn-over business, and likewise to retain the business that you have?

Mr. Bobbitt: If the Court please, it seems to me, as an accounting proposition, that all the witness can testify to is what the records and books show. I don't think he should be expected to——

The Court: Well, I think this witness has probably [fol. 1031] qualified as an expert accountant, and if I understood his question he is asking him for his opinion as an expert.

Mr. Bobbitt: He is asking what the Company had in mind when they spent so much money.

The Court: Well, read the question. Maybe I misunderstood it.

(Thereupon the Reporter read the last preceding question, as follows: "Q. Well, I am not asking you to do that; I am asking you whether in the ordinary accounting meaning of the term that expense does not cover both those functions—that is, the function of adding new business or adding business to take care of the turnover business, and likewise to retain the business that you have?")

The Court: The question clearly calls for an expert opinion from an accounting expert. He is asking for his opinion as an accountant.

Mr. Bobbitt: Well, if he knows—yes, sir.

A. Well, I would say that in a business of this type the primary purpose of new business expenses, as the term is used here, is to acquire new customers. It is somewhat unlike a store that might advertise special sales and bargains each day to keep the old customers coming back and to get new ones in, or a concern which might be losing customers [fol. 1032] because they were going to some other place, and I would say that this expense in the ordinary accounting sense would be expended by utilities primarily for the purpose of adding new business.

Q. You think that is its primary purpose. Do you think it is its sole purpose?

The Court: Now, wait just a minute, Mr. Coates. I think you are getting as far afield as Mr. Bobbitt thought you were a while ago. I let you ask him as to the accounting sense, and now you say is that the sole purpose.

Mr. Coates: Yes, and he said it was the sole purpose.

The Court: From an accounting standpoint.

Mr. Coates: And I am still asking him, did you mean to include that.

The Court: Well, if you don't think he has already answered it, I will let you ask it and confine it to an accounting standpoint.

Mr. Coates: All right.

The Court: If you will read the previous answer I think you will see he has already answered it.

(Thereupon the Reporter read the answer referred to, same being as follows: "A. Well, I would say that in a business of this type the primary purpose of new business ex- [fol. 1033] penses, as the term is used here, is to acquire new customers. It is somewhat unlike a store that might advertise special sales and bargains each day to keep the old customers coming back and to get new ones in, or a concern which might be losing customers because they were going to some other place, and I would say that this expense in the ordinary accounting sense would be expended by utilities primarily for the purpose of adding new business.")

The Reporter: The last question you asked, Mr. Coates, was: "Q. You think that is its primary purpose. Do you think it is its sole purpose?"

Q. In the ordinary accounting significance of the term.

A. No, I wouldn't say that it was the sole purpose, but I think that it is the primary objective.

Q. Now, you have likewise eliminated from expenses certain items of Law Expense for the year 1933. How much Law Expense, if you recall, have you left in this operating statement for 1933?

A. I have eliminated all of the Law Expense prorated from the Houston general office.

[fol. 1034] Q. Well, how much have you left in?

A. I have left none of the Houston general office in, and I am not sure whether there is any legal expense in the district general expense or not; I can look that up in my papers that I have at the hotel; I am not sure right now.

Q. You don't know whether any fees paid to lawyers are carried on the district payrolls, do you?

A. On the payrolls?

Q. Yes.

A. No, I don't believe that there are any carried on the payroll; there may be.

Q. Well, just to get the exact figures, as I recall, before lunch you eliminated from the operating expenses for 1933 law expenses in the sum of $4,112.04, did you not?

A. Just a moment. I will have to look.

Q. I will give you the items when you turn to the page.

A. The total law expense items in both distribution and transmission?

Q. Yes. Here are four items, Mr. Lewis, if you want to take them down for the purpose of checking: $619.34, $296.25, $1745.19, and $1551.28. You had better add them up, because that is my mathematics and I can't add very well.

A. What total do you have?

Q. $4212.04.

A. I have five cents.

[fol. 1035] Q. $4212.05?

A. That is the figure I have, yes, sir.

Mr. Bobbitt: He said first $4112.04.

Q. Now, Defendant's Exhibit 3 contains for law expenses $4438.00, does it not?

A. $4438.00, yes.

Q. And the difference between the amount that you have eliminated and the amount shown in Defendant's Exhibit 3 is $225.96, is it not?

A. It is approximately that figure, yes.

Q. It is ninety-five cents. Now, are you able to point to any amount over and above $225.95 that you have included in the operating statement for 1933 as legal expenses attributable to these properties for the year 1933?

A. Not at this time. I have my detailed expense papers down at the hotel, and I will have to get those figures for you.

Q. Now, does this represent your accounting judgment as to what the amount of legal expenses for these properties for this year should be?

A. It was my opinion that the greater part of those fees were in connection with valuation and regulatory commission expenses.

Q. What do you base that opinion on, Mr. Lewis?

A. Well, I knew that there were attorneys' fees paid in connection with these items, and it was my understanding [fol. 1036] that some of those legal fees were charged to regulatory commission expenses and some were charged to law expenses, and there was a decided increase in the amount of law expenses as between this year and the prior year.

Q. And did you make an anlysis of the charges to determine to what legal services those charges were attributable?

A. Those figures came from the Houston general office, which originally contained some two hundred and fifty thousand dollars in legal fees, and those figures I have eliminated through the allocated portion. Now, I didn't make an examination of the Houston general office general expense accounts, because they were too voluminous for me to undertake in a work of this character.

Q. Did you go far enough to determine whether that covered legal expenses for operations in five States?

A. As I stated, I made no detailed examination whatever of the general office expense accounts, because the items contained therein were too voluminous for me to handle in any reasonable length of time.

Q. And did you determine the number of attorneys or the number of firms of attorneys in Texas or on the company's system who made those charges?

A. I stated, Mr. Coates, that I made no examination whatever of the items contained in the general office general expense accounts. I merely started with the total and the classification as shown on the books, because I did not have [fol. 1037] time to make a detailed examination of the entire general expenses of the United Gas Public Service Company.

Q. Why did you leave in this $225.95?

A. I don't know that I left that in. I have never been able to get the figures whereby I could reconcile the two exhibits.

Q. Did you ascertain that any of these fees were not paid?

A. No, sir.

Q. And I believe your answer is sufficient to indicate that you have not made any analysis of charges to determine what legal expense for 1933 was attributable to rate cases and which was attributable to other legal services?

A. I made no examination other than to determine that the legal expenses were greatly increased in 1933, and I know that during the year 1933 you had a considerable number of rate cases and also had the transmission line investigation, and you will observe by referring to Defendant's Exhibit 3 that the law expenses for the year ended July—ended December 31, 1933, are $4438.00——

Q. Yes.

A. —as compared to $1459.00 in the Defendant's Exhibit 2 for the year ended July 31, 1932, which is an increase of approximately three thousand dollars,

Q. So you just compromised by cutting practically all of it out, did you?

A. I stated that I eliminated all of the general office legal expense.

[fol. 1038] Q. Now, did you find any audit fees for the year 1933?

A. Yes, I found some audit fees.

Q. Did you find that those were increased over the year ended July, 1932?

A. I don't believe I have that. There was a small increase.

Q. What was it, stated as a percentage?

A. I will have to use the Defendant's Exhibit's figures, because I have not broken down my accounts to this subclassification. Referring to Defendant's Exhibit 2, for the year ended July 31, 1932, audit fees are shown as $373.66; for the year ended December 31, 1933, $571.06, or an increase of $197.00.

Q. Now, did you cut any part of those audit fees out?

A. No, I have not eliminated that.

Q. You left every dollar of those in, didn't you, Mr. Lewis?

A. Yes, sir. I might state that probably some of them should be eliminated, because there was considerable auditing done during that period attributable to bond issues, and the auditing expense was also increased because of the summary organization, and a part of that should be eliminated.

Q. What part of the auditing expense was attributable to bond issues, Mr. Lewis?

A. I stated that I made no detailed examination of these accounts, except in a general way.

Q. Well, do you state on your oath that a part of this item of audit fees for the year 1933 was attributable to bond issues?

[fol. 1039] A. No, I could not absolutely say that it was, but I am of the opinion that part of it was.

Q. Well, what is that opinion based on?

A. It is based on general knowledge of the United Gas fees and the fact that the audits vary at times. More auditing was done than was usual or customary.

Q. Do you know how audits in connection with bond issues on the books of the United are charged?

A. No, sir.

Q. You don't?—You say you don't?

A. I don't know definitely. I have not, as I explained, made a detailed check on this general expense account, and I just know in a general way.

[fol. 1040] Q. Then if you don't know how audit fees on the books of the United are charged, which are attributable to bond issues and you have made no analysis of the audit fees to determine what charges were made for bond issues and whether any of them were included in this item for this operating statement, how can you state that part of that is attributable to bond issues?

A. I was not sure enough of it to eliminate any part of the audit fees.

Q. That was not my question. You made the statement here that part of that, in your judgment, was attributable to bond issues and I want to know whether it is just a guess or if you have facts to base it on.

A. I stated that in only a general way, and stated that I was not sure enough of it to eliminate it, and so it is all left in there.

Q. And you can not point to any accounting record or any investigation you have made to support your opinion, can you?

A. No, I made no detailed investigation of the general office general expense account.

Q. Now, you have likewise eliminated all items of donations, have you not?

A. Yes, I have—or I say I have eliminated all items of donations; there may be some in the district general expense I did not eliminate.

Q. How much did you leave in for donations?

A. I stated there may be some left in the general office [fol. 1041] expense but I am not sure whether or not there is. I will have to refer to my papers in order to determine that.

Q. Do you know whether donations—I believe the amount you have eliminated here is $36.00 and $102.00 or $138.00 for the year; do you know whether subscriptions to the Chamber of Commerce are classified as donations?

A. I just accepted the company's classification of donations as being donations, and made no detailed check of any of the general office general expense accounts.

Q. In other words, you do not know what is in that item of donations?

A. No, all I know is that the general office books indicate that this amount has been paid for the account classification, donations.

Q. Well, under the account classification described by the National Association, do you know whether donations—that is, whether subscriptions to charitable organizations, Chambers of Commerce, churches and what not, are carried in the account classifiation, donations?

A. I am not sure under that particular classification, but in general practice you find donations some times sepa-

rated and sometimes in the same account with your subscriptions.

Q. But you do not know what would be the proper classification under the classification prescribed by the National Association of Railway and Public Utility Commissioners?

A. In this instance there is no account classification for [fol. 1042] subscriptions, due and donations. It is just the title, donations, and I assume the subscriptions have been charged to the donations account, although I do not know what has been charged in there, because I have made no detailed check.

Q. Well, in your experience in auditing the books, records and accounts of businesses, have you found that donations of that character are practically an inevitable cost of doing business, Mr. Lewis?

A. Well, I wouldn't say an inevitable cost. Some concerns are rather generous in their subscriptions and donations, and others pay nothing.

Q. Well, does this item of $138.00 indicate any prodigal generosity or throwing around of money?

A. No, I wouldn't think so.

Q. And not referring now to the amount, but referring to donations as an item of operating expense, have you generally and normally found that it is impossible to do business in a community without having some expense classified as donations?

A. I would not say that it is impossible.

Q. I am asking you, as a practical proposition.

A. Well, as a practical proposition, I would say it is not impossible to do business without donations.

The Court: Isn't that about enough along that line?

Mr. Coates: I have just one or two more questions, if I may, and then I will get away from this.

The Court: All right; lawyers sometimes forget them- [fol. 1043] selves and kill too much time in one little spot.

Q. Now, in all reports to the federal government for the purpose of showing net income, donations are deducted, are they not?

Mr. Bobbitt: I don't think, if the Court please, we should go into what the federal government will allow in an income tax return.

The Court: I will sustain the question as asked.

Q. But does your elimination of donations, both for this period and marking the item questionable for all other periods, indicate your accounting judgment that donations in any amount are not a proper cost of doing business?

A. In connection with investigations of this character, there is considerable question as to whether it is a necessary cost or not.

Q. I am asking for your accounting judgment about it.

A. Naturally my accounting judgment in general practice would not in all cases coincide with my accounting judgment in a proceeding of this kind.

Q. What is your accounting judgment in your general practice.

A. What was the original question—read it please.

(Whereupon the following question was read to the witness; "But does your elimination of donations, both for this period, and marking the item questionable for all other periods, indicate your accounting judgment that donations in any amount are not a proper cost of doing business?")

A. I think business can be transacted without the payment of donations.

[fol. 1044] Q. How long have you been in business for yourself, Mr. Lewis?

A. Not very long.

Q. All right. Now, Mr. Lewis, turning to Plaintiff's Exhibit 4, how much did you deduct from reserve accruals to represent amounts accrued for the Jennings-Roma line?

A. At the time the properties were transferred to the United Gas Public Service Corporation on October 21, 1932, I had for depreciation allocated to the Jennings-Roma line, $56,590.74.

Q. Now, you show that the net additions to property, by which I take it you mean additions less retirements, at the time the properties of the Border Gas Company were transferred to South Texas Gas Company, of $1,006,512.13, that date being April 10, 1928?

A. That is correct.

Q. And that as of the time these properties, eliminating the Jennings-Roma line were transferred to United Gas Public Service Company, the historical cost of the property, being net additions, was $1,049,735.38?

A. That is correct.

Q. And that is gross additions less retirements?

A. Yes. In connection with the foot note—during the year ended July 31, 1932, there had been two substantial retirements which were credited out of fixed capital and the replacement was not charged into fixed capital until some time after the transfer of the properties to the United Gas Public Service Company.

[fol. 1045] Q. Well, have you picked up that replacement in your figures?

A. Yes, at a later date.

Q. And is that replacement picked up in the figure showing the net historical cost of $1,153,232.98 as of December 31, 1932?

A. That is correct.

Q. And is likewise carried into the figure showing historical cost of properties as of December 31, 1933, of $1,151,993.65?

A. That is correct.

Q. And all of these eliminate from consideration the Jennings-Roma line?

A. That is correct.

Q. And likewise any amount in the opening entry to this account, except the $166,000.00 figure which was testified to by Mr. Kinney?

A. That is correct.

Q. Did you go over these books for any period prior to April 10, 1928?

A. No, sir, I did not.

Q. Well, during the period covered by you, has any amount been included in here for materials and supplies?

A. Yes.

Q. What amount?

A. Well, to give you a detail of the amounts charged in here——

Q. I am talking about what the materials and supplies were carried on hand by an operating company.

A. You mean the inventory of that?

[fol. 1046] Q. Yes.

A. No, there is nothing in here for that.

Q. Is there any amount included here for cash working capital?

A. No, sir.

Q. And did you have any thing to do—or did you work on that opening entry?

A. You mean on the $550,000 entry?

Q. Yes.

A. No, sir, I did not.

Q. Mr. Lewis, at the time these properties were transferred from the Border Gas Company to South Texas Gas Company and the Texas Border Gas Company, namely as of April 10, 1928, was any of the surplus or reserves of Border Gas Company taken over by either of the two transferee companies?

A. There were no reserves set up on the South Texas Gas Company books; the assets were transferred at the depreciated value, or rather, at the appraised value——

Q. At an appraised value?

A. Yes, and there was no reserve for depreciation set up on the South Texas Gas Company books or the Texas Border Gas Company books.

Q. How about surplus account—was it transferred?

A. The surplus account would not be transferred, no.

Q. Then, as I understand it, when the transfer of these properties occurred, neither the surplus nor the reserve account went with the physical property?

[fol. 1047] A. No, there was no reserve account transferred and naturally the surplus of a concern transferring its properties, in the ordinary sense, would not be transferred.

Q. And do you mean to indicate that the charges to the reserve as of any period here, or rather the reserve accruals accumulated were carried and kept on hand in cash by Border Gas Company, so that they could be transferred?

A. No, the term depreciation reserve does not mean that actual cash is set aside. It is simply a portion of the profits which are reserved for that purpose, and it does not necessarily mean any amount of money was set aside.

Q. You simply take your gross revenues and deduct your operating expenses, and then any amount that you have left, part of that is available for either putting in surplus or the declaration of dividends, is it not?

A. Indirectly that is the end that is achieved.

Q. And the reserve accruals are book entries in the sense that that amount of money is not set aside in the normal practice and retained in a reserve account?

A. They are book entries, and the depreciation reserve is what is known as a valuation reserve. The company setting up the reserves does not wish to credit those pro-

visions direct against the fixed assets accounts, for the reason that they might lose sight of the original cost, and so they open a new account, termed the depreciation reserve account, and make the credits to that account.

[fol. 1048] Q. Have you given a study to the principles of reserve accounting, Mr. Lewis?

A. I have studied it, but you can study it a good deal longer than I have, and still be somewhat at sea on it.

Q. Isn't the purpose of a reserve to provide, out of operations for each year, a sufficient amount to take care of retirements and replacements of the property as they occur?

A. Yes, the object is to make an annual provision to take care of the retirements of property so that when the properties are retired, the entire cost will not have to be charged against one year's operations, the object being to even out those charges as the properties are used, and to write their value off over their useful life.

Q. In other words, so that by relatively even charges to the reserve over the period of the useful life of the property you may have, at the time any particular unit or group of property is retired, a sufficient amount to cover the cost of that particular unit or group of property?

A. By those comparatively even charges to operating account and not to the reserve account. The reserve account is charged with the actual retirements.

Q. Now, are you the author of the two columns headed Adjusted Depreciation, shown on page 2 of Plaintiff's Exhibit 4?

A. Yes, I am the author.

Q. And are those computations based on your knowledge of reserve accounting principles?

[fol. 1049] A. No. The reason the three per cent was used, was because that is the rate designated by the Commission's order.

Q. All right. Now, refer here, Mr. Lewis, to the fourth column on page 2 of Plaintiff's Exhibit 4, headed Accumulated Additions, and will you please state the amount of accumulated additions on hand at the end of June 30, 1915?

A. $234,311.33.

Q. And the total amount of additions, not making deductions for retirements, is approximately $2,000 in excess of that amount, isn't it?

A. I didn't understand the question.

Q. I say the total amount of additions, without deducting retirements occurring within that period, is approximately $3,000, it is, in excess of that amount, isn't it?

A. $3,000 in excess of the $234,000?

Q. Yes.

A. I don't quite understand that.

Q. Well, the figure you have read is the accumulated additions; that is, the gross additions, after retirements, is it not?

A. Yes, that is the accumulated additions at the end of the year.

Q. Now, the total physical property added during that period of some five and a half years, without retirements, would be the sum of $234,311.33, plus the figures shown in the retirements column for that same period, would they not?

A. Yes.

Q. And that is approximately $3,000?

[fol. 1050] A. Yes, approximately $3,000.

Q. Now, that property, Mr. Lewis, or that investment, was made in property over a period averaging approximately 21 to 17 years prior to the date these properties were transferred to United Gas Public Service Company. That is, October 21, 1932?

A. Yes, approximately 17 years.

Q. That is, taking June 30, 1913, as the average date, you have between 18 and 19 years average spann of years there, have you not?

A. I don't quite understand what you mean, Mr. Coates.

Q. Well, in the period from the first day of 1911 to the 30th day of June, 1915, there were property additions gross in the sum of some $237,000?

A. Approximately, yes.

Q. Now, those additions were installed at an average date, say, of approximately 18 or 19 years prior to October 21, 1932?

A. You are assuming that the average date would be June 30, 1913?

Q. Yes.

A. So that would make the average life approximately 19 years.

Q. Yes; now——

The Court: Gentlemen, let's take ten minutes recess.

Whereupon, at 3:30 P. M. a recess was had until 4:00 P. M.

[fol. 1051] By Mr. Coates:

Q. Now, Mr. Lewis, referring back to Legal Expenses, it was your intention to eliminate all legal expenses from these operating statements?

A. It was my intention to eliminate all legal expenses allocated from the general office.

Q. Do you know whether the amounts paid, both retainers and fees of local attorneys in Laredo, are carried on the General Office accounts?

A. I can't say at this time. As I stated I will look into my detail work papers of district expenses tonight and see if I have included there any legal expenses. I am not sure at this time.

Q. In order to enable you to find the items, look up the fees paid Mann, Neel & Mann; and in order for you to identify one of the items of expense, look for the charge in the case of Wolf and Reuthinger vs. United Gas Public Service Company in 1933; and likewise, for charges for examination of papers, drawing contracts, and things of that kind.

A. I will not have the details of the General Office Legal Expenses paid. Included in that total I will not have any detail on them.

Q. Referring now to page 2 of Plaintiff's Exhibit No. 4, as at October 21, 1932, what were the total retirements of property, Mr. Lewis?

A. $261,043.77.

Q. What were your total charges to Reserve including [fol. 1052] Retirement Expenses charged to Operation?

A. $206,496.46.

Q. Including Retirement Expense charges to Operations, Mr. Lewis?

A. It would be $258,354.17.

Q. Now, at what annual rate of reserve accrual would it have been necessary to accrue reserves on property installed by June 30, 1915 in order to equal the amount of retirements or charges to the reserve by October 21, 1932, approximately?

A. I would have to make that computation; I don't know.

Q. It would be in the neighborhood of six per cent, would it not?

A. I don't know. I would have to compute it. Do you want to know what rate prior to June 30, 1915 would have been necessary to provide a reserve sufficient to take care of the retirements down to October 21, 1932.

Q. Exactly; and at the end of a period of less than twenty years from the date we fixed as the average date there, that is June 30, 1913, more property was retired, was it not, than had been installed down to June 30, 1915?

A. I don't quite understand the—the total amount of additions at June 30, 1915 would, approximately, be $237,000.00.

Q. Yes.

A. And the total amount of retirements through October 21, 1932 is $261,000.00, which is obviously greater than $237,000.00.

[fol. 1053] Q. Well, if you had accrued reserves at the rate of five per cent per annum on the property installed prior to June 15, 1915, would you have had a sufficient amount to equal retirements of property by the end of 1932?

A. I don't know whether you would or not.

Q. Is it not a very simple calculation, Mr. Lewis?

A. Well, it might——

Mr. Bobbitt: Do you want him to calculate it?

Q. Yes. If you accrued reserves at the rate of five per cent per annum for twenty years on $237,000.00, at the end of that twenty-year period you would have $237,000.00, would you not?

A. If there were no additions or retirements?

Q. Yes.

A. It would provide a reserve of 100 per cent at the end of twenty years at the rate of five per cent.

Q. What amount of property was added from the period from June 30, 1915 to the end of 1920? I have down here $147,778, omitting cents; see if that is correct.

A. The total additions from June 30, 1915 to December 31, 1920?

Q. The next five-year period—approximately five and a half year period?

A. It looks like it would be approximately $185,000.

Q. Now, take Total Property Additions installed in the five-year period from January 1, 1921 to December 31, 1925; what were those additions?

[fol. 1054] A. Approximately $537,000. I am not figuring the exact amount.

Q. You are familiar with the simple turn-over method of computing the adequacy of annual reserve accruals, are you not?

A. I don't know that I am.

Q. To refresh your memory, doesn't the turn-over principle rest upon this proposition; that the property remaining in service is assumed to be the property last installed?

A. Under that theory any retirements—of course, if possible, the retirements should be cut out of the year's acquisitions in which it was installed; but in the absence of that definite knowledge, it is generally assumed that a retirement is made from the first acquired properties.

Q. That is right; and that the property remaining — service and which has not been retired, is the property which is most recently installed, and the property which is retired is the property first installed?

A. That would be the general assumption; but in all cases where possible you should determine the actual acquisition date of any property that is retired.

Q. That is right. Doesn't the fact that at the end of seventeen to twenty-one years after $237,000 of property were installed that the retirements were between two hundred fifty and two hundred sixty thousand dollars indicate to you that by the application of the turn-over method of figuring the adequacy of reserve accruals, the reserve accruals should be somewhere between five and six per cent?

[fol. 1055] Mr Fitzhugh: We object to that question because there is no proof at all that that is the system used by the Company.

The Court: Mr. Reporter, will you read the question, please?

(Thereupon the Reporter read the following question: "Q. That is right. Doesn't the fact that at the end of seventeen to twenty-one years after $237,000 of property were installed that the retirements were between two hundred fifty and two hundred sixty thousand dollars indicate to you that by the application of the turn-over method of

figuring the adequacy of reserve accruals, the reserve accruals should be somewhere between five and six per cent?)

The Court: I will sustain the objection. You can have your full bill, Mr. Coates.

Mr. Coates: We wish our exception noted, and the statement of the Court that we may have a full bill of exceptions, and that each and all of the grounds of the exception may be put in the full bill.

Q. On the property which was installed between 1916 and 1920, which is at an average age of twelve to seventeen years prior to October 21, 1932, what amount, in your opinion, should be on hand in the reserve to take care of reserve accruals—to take care of the retirement of that property?

A. I can't say as to that, Mr. Coates, because I can't determine from which of these years acquisitions and retirements have been made. It may be that some of those ad- [fol. 1056] ditions have been replaced in the last year or two and all charged out.

Q. Wouldn't that indicate even a shorter period for accruing reserves than what I am inquiring about, which is to take the earliest property and assume that the first property installed is that retired?

A. Well, there might be reasons for retirements other than actual wearing out of the property. I couldn't say whether a reserve is adequate or inadequate without knowing the condition of the property, and the number of replacements that have been made, and the repairs made and charged to operations, and any number of things that I would have to consider; and I don't feel qualified to say whether a reserve is adequate or inadequate.

Q. From the facts you have set forth on page 2 of Plaintiff's Exhibit 4, do you feel that facts are set forth there which would enable one who has studied the principles of reserve accounting to compute the adequacy of a reserve accrual for this property?

A. I don't believe there are enough facts on this Exhibit alone to enable you to determine that. You would have to take into consideration a number of factors.

Q. What factors not reflected on page 2 of Plaintiff's Exhibit No. 4?

A. The repairs to the lines, in keeping them in good condition, that might have been made and charged to Opera-
[fol. 1057] tions during the periods; or the retirements that might have been made and charged to Operating accounts other than the ones shown here; the general condition of the properties at this time, and any number of factors would influence one's decision as to whether a reserve is adequate or not.

Q. Well, in the case of this reconditioning of the Jennings-Pescadito line, you eliminated that from Operating Expenses, did you not?

A. Yes; I did.

Q. And did you make that amount eliminated a charge against the reserve accruals which you have set up in Plaintiff's Exhibit Number 4?

A. Yes, sir.

Q. You did?

A. Yes, sir.

Q. Where does it appear?

A. It appears on Page 1 of the Exhibit.

Q. And what figure is it?

A. $31,143.60.

Q. And the amount you eliminated was thirty-three thousand some odd dollars. How did you compute the charge to the reserve?

A. The item I eliminated contained eliminations for properties other than the properties shown on this Exhibit. You see I started with the Maintenance Expense account of the San Antonio District, and made my elimina-
[fols. 1058-1063] tions from that district as a total before I started allocations. Included in my thirty-three thousand dollars elimination is an item for retiring some pipe close to San Marcos and repairing the pipe line immediately south of San Antonio, and other items that would not be reflected in this exhibit.

Q. Now, you audited these books back as far as April 10, 1928; did you eliminate from Operating Expenses all maintenance items that you felt should be charged to Reserve?

A. I did not make an audit for the period from April 10, 1928 to February 28, 1930. It was more of a summary analysis. From that time on I have made a rather comprehensive check of the items.

Q. And have been careful to eliminate any charges from annual Operating Expenses that you thought were extraordinary or non-recurrent?

A. No, I haven't; some of the items I could not definitely determine should be charged to reserve I have left in there, particularly in respect to the Laredo Distribution District for the year ending July 31, 1932. The Maintenance of Distribution System for that period was considerably more than it was in any other period due to the fact there was more repairing done and more expenditures for replacing small items; but they were all small items, and it would have taken too much time to pick them out.

. . . . . .

[fol. 1064] Redirect examination.

Questions by Mr. Bobbitt:

Q. Mr. Lewis, you were interrogated this morning, I believe it was, about this gathering charge of six cents, and you made some explanation as to why you made such eliminations.

Mr. Coates: We object to the question, because there is no testimony in the record about a gathering charge of six cents.

Mr. Bobbitt: Well, a charge for gas.

The Court: Well, he wasn't asking a question. I believe he was just making a preliminary statement.

Mr. Bobbitt: Yes, sir.

Q. And you gave some explanations of why you made certain eliminations about that six cent price in the Carolina-Tex field for gas acquired from the subsidiary, the Southern Gas Company?

Mr. Coates: We object to the statement of the attorney in the presence of the jury, to the effect that there is a six cent price for gas in the Carolina-Tex field shown in any of these operating statements, because it is not supported by the record, and is prejudicial.

The Court: Yes, I will sustain the objection; and, gentlemen, you will not pay any attention to six cent gas. If they want to explain to you what it is, all right; or make the statement fuller.

[fol. 1065] Q. What reference did you make this morning to the six cent charge in the Carolina-Tex field for gathering?

Mr. Coates: The same objection.

The Court: No, I think there was a six cent charge referred to.

Mr. Coates: Note our exception.

Q. Do you recall, Mr. Lewis?

A. You refer to the gathering charge of one cent per thousand cubic feet?

Q. Yes, sir.

A. Which is paid in addition to the cost of the gas?

Q. That is correct, isn't it?

A. Yes, sir.

Q. All right. That is in the Carolina-Tex field, isn't it?

A. Yes, sir.

Q. Now, do you know what the same company charges for gas from the Bruni or Carolina-Tex area, delivered at the Jim Hogg Junction?

Mr. Coates: Our same objection to that, because no proper predicate has been laid here, showing the conditions are like and comparable.

Mr. Bobbitt: Well, we can't ask it all at one time.

The Court: I will sustain the objection.

Q. Do you know the price of gas that is charged by the Company for delivery at Jim Hogg Junction?

Mr. Coates: The same objection.

[fol. 1066] The Court: Yes, it is objectionable, Mr. Bobbitt, the way you have asked it.

Q. Explain, Mr. Lewis, why you made the elimination you testified about in respect to that one cent gathering charge from the Carolina-Tex field, in addition to the purchase price of the gas.

Mr. Coates: That is objected to as repetition. I think he has fully explained that.

Mr. Bobbitt: No, sir, he hasn't fully explained it.

The Court: I will overrule the objection to that. I don't remember clearly in my own mind whether he has answered that question; it seems that he has, but I am not sure about it.

Mr. Coates: Note our exception.

A. That charge has been eliminated for a number of reasons:

Q. State them, please.

A. The first reason that I had in making that elimination was that the contract providing for the one cent gathering charge was not made until the Roma line was built. Prior to that time the South Texas Gas Company had been purchasing gas without that added one cent gathering charge, and it was my reaction that if it were necessary to pay the one cent gathering charge at that time it was due to the addition of a new demand for gas which diverted the gas that had formerly been going to Laredo, so that there was an in-
[fol. 1067] creased cost to the Laredo lines occasioned by the addition of the Monterrey line. Another reason that I have eliminated this charge is because the Southern Gas Company at the same time it was billing gas to the South Texas Gas Company at five cents plus a one cent gathering charge in the Carolina-Tex field was also making deliveries at Jim Hogg Junction to the South Texas Gas Company at a price of five cents per thousand cubic feet, without the added gathering charge. And another reason that I have eliminated the item is because after the contract was made with the Southern Gas Company in 1929, gas was billed direct from the Southern Gas Company to the South Texas Gas Company, part of it at five cents per thousand cubic feet and part of it at six cents per thousand cubic feet; and at the same time there was a contract between the South Texas Production Company and the South Texas Gas Company providing that the South Texas Gas Company would deliver to the—the South Texas Production Company would deliver to the South Teaxs Gas Company all the gas that they needed at eight cents per thousand cubic feet for industrial gas and thirteen cents per thousand cubic feet for domestic gas. That contract was amended in 1929, specifying that all gas delivered under that contract would be billed at five cents per thousand cubic feet. So that from the period the contract between the Southern Gas Company and the South Texas
[fol. 1068] Gas Company went into effect and February 1, 1931, South Texas Gas Company was paying the Southern Company five and six cents per thousand cubic feet on gas billed direct to them, and they were paying the South Texas Production Company at the rates of eight and thirteen cents per thousand cubic feet. Beginning on February 1st, 1931,

the gas that had formerly been billed direct from the Southern Gas Company at five and six cents was billed through the South Texas Production Company at eight cents, and in addition to that South Texas Gas Company was billed one cent per thousand cubic feet additional for the gas gathered under the contract. I might——

Q. When was this—Go ahead.

A. I might have mentioned some other reasons before, that I do not recall right now.

Q. This contract related to——

Mr. Coates: We renew our objection and move to strike the testimony, because it is repetition.

The Court: I will overrule it because I do not recall whether it is repetition or not. I do recall his re-statement of one reason, but the other I don't. I will overrule it.

Mr. Coates: Note our exception.

Q. This contract you refer to of the eight cent gas and the thirteen cent gas is the contract that we asked Mr. Stein to furnish us, and which you heard his testimony the other day, in which he stated he would furnish it to us here?

[fol. 1069] A. I didn't hear all of Mr. Stein's testimony. I don't recall whether he did or not.

Q. Mr. Lewis, when was the item pipe line rental first set up on the operating statement by the Company, if you know?

A. It was about the first of January, 1930. It may have been December '29.

Q. Is it being set up any differently, or was it set up any differently this last year—this past year than it was prior to that time?

A. No, I think it has been set up consistently in the same manner, as a monthly charge of $1150.00 a month.

Q. That refers to the pipe line in the East Jennings field, doesn't it?

A. That pipe line rental is paid to the Southern Gas Company for the use of the line from Jennings Junction to Jim Hogg Junction.

Q. All of these companies—the South Texas Production Company and the South Texas Gas Company, and any others you mentioned, they are all subsidiaries of the United Gas Public Service Company, or were?

A. The South Texas Production Company was owned by the South Texas Gas Company, and the South Texas Gas Company was, in turn, controlled by the United System, or

whatever the operating—the United Gas Company, I believe.

Q. Yes. Taking these in inverse order and going back up [fol. 1070] the line here, Mr. Lewis, just for a few questions,—on this elimination of this item of donations you testified about a moment ago, you were asked whether or not from your accounting experience and practice, if that was a proper item to allow or to be charged and paid as an operating expense. As a matter of fact that can be allowed or is allowed sometimes as an operating expense and sometimes is paid by the stockholders of the company, isn't it?

A. Will you repeat the question?

Q. Well, just strike that question. I will ask you this question, Mr. Lewis, if the item of donations, such as you were asked about, if paid by the company and charged as an operating expense, it is in fact paid by the ratepayers, isn't it, and not by the company?

Mr. Coates: Just a moment. We object to that.

The Court: I will sustain the objection.

Q. Well, from your experience, Mr. Lewis, as an accountant, along the lines you were asked about, it is not always allowed—this item of donations is not always allowed as an operating expense, is it?

Mr. Coates: Now, just a moment. We object to that question. I don't know what he means by "allowed". But if he means allowed by a regulatory commission or a court in a [fol. 1071] case of this sort, it obviously calls for his legal conclusion, and goes to one of the ultimate issues to be determined either by the Court or the jury in this case.

The Court: Yes, I——

Mr. Coates: We object to it for both of those reasons.

The Court: You made inquiry a good deal about donations this morning, and on their objection, if they had objected, I would have sustained it. Now, you are objecting and I am going to sustain it, because whether donations have been allowed or are allowed is not a question this court should allow before this jury.

[fol. 1072] Mr. Coates: Well, I sought to project all my questions along the line of his accounting judgment.

The Court: Well, it's settled; I have sustained you now and I would have sustained them had they objected.

Mr. Bobbitt: Well, we didn't object, and as stated in the beginning, if the court please, on these accounting——

The Court: But that doesn't make it admissible.

Mr. Bobbitt: Very well, if we have waived our rights, we have waived them, if the court please, but as stated in the beginning of the trial of this case, we desired not to be making objections and that he could ask leading questions as he has, but if he wants to object, that's all right.

The Court: I never saw more agreeable lawyers in my life, and I am very happy about it.

Mr. Coates: I don't want to be placed in the wrong attitude here, if the Court——

The Court: That's all right; he smiled at the Court when he said that.

Mr. Coates: He said that in the beginning we would not make any formal objections; that is, not object to leading questions or anything of that sort but would let them go by, but would make objections as to the legal admissibility as to the substance of any testimony sought to be elicited where we thought it would be inadmissible legally, and we have sought consistently to follow that out.

The Court: Well, I have sustained your objection; go right ahead with your questioning, gentlemen.

[fol. 1073] Q. Mr. Lewis, in your answer to the question while ago, as to your elimination of these donations as an operating expense, did you mean to testify that they were not properly allowable, that is, donations to charitable institutions or Chambers of Commerce and so forth, that you were asked about?

A. I don't quite understand what you mean by allowable. Do you mean is it usually considered an ordinary operating expense?

Q. Yes; why did you eliminate those items?

A. I eliminated them because——

Mr. Coates: We object because it is repetition.

The Court: Gentlemen, if this man didn't answer that question as emphatically and positively as he could, I don't know it—he stated over and over again in this record as to why he eliminated them.

Q. As a matter of fact, I don't think some of these questions are very clear; they were asked by the attorney for the utility——

The Court: All right; go ahead—we will lose as much time arguing about it as it would take to ask and answer the question, so go ahead.

Q. Did you tell us why you eliminated those items?

The Court: I sustained an objection to that question on the ground that it was repetition.

A. As to whether they are eliminated, Mr. Lewis, doesn't it depend, in your judgment, on who pays them—who actually pays them, these donations?

A. Well, if the corporation had not paid the donations, [fol. 1074] they would not be in the corporate expense accounts. There is some confusion as to whether a donation is a proper operating cost or a distribution of profit or an amount paid for stockholders.

Q. The confusion, as I understand it, is as to who actually has to pay the money; isn't that it?

Mr. Coates: We object to the question, because it is not confined to his accounting judgment.

The Court: Sustain the objection.

Q. All right; you were asked at great length here, Mr. Lewis, by Mr. Coates, about the detail of this general office general expense. I believe you testified you made no detailed audit of the general office general expense?

A. No, I made no detailed audit of the items charged to the general expense accounts on the general office books.

Q. How long wou-d it take you, if you know, approximately, to make a detailed audit of that item on the company books?

A. It would take more time to make a detailed check of the items charged to that account than to do all the rest of the work.

Q. It would take three to six months, wouldn't it?

A. It would take a good long while; possibly six months, for one man.

Q. Now Mr. Lewis, on this question as to new business expense, you testified you made certain eliminations in that item. Were you here the other day when Mr. Stein, the district manager of the company, testified that they had reached the point of saturation for customers and volume of gas at Laredo?

[fol. 1075] A. Yes, I believe I was here at that time.

Q. Well, from your accounting practice and in your judgment, if the utility has reached the point of saturation, do you think $6,000 ought to be allowed for new business expense for the year 1933?

Mr. Coates: We object to that because it is not confined to his accounting judgment, and is an attempt on the part of this accountant to substitute his judgment for the judgment of the business officials of the company.

The Court: Yes, he based it on his accounting judgment; that is in the question.

Mr. Coates: And no proper predicate is made showing the legal admissiblity of the accounting judgment of the witness in this regard with respect to the judgment of the managing officials of the company.

The Court: He has asked the question of this man as an expert witness, and the objection is overruled.

Mr. Coates: Note our exception.

A. I have included in Exhibit 8 a proportionate part of the new business expense incurred in the Laredo district, and charged to new business expense in that district. I have not allocated to Laredo any part of the general office new business expense for the reason that I consider that general office new business expense more applicable to the new distribution systems. There is still another reason: in the general office new business expense, the total amount [fol. 1076] of the general office new business expense for the year was $47,654.87. Of that amount $21,274.07 is for industrial engineering, or the adding of new industrial customers. Under the company's system of allocation, that item is all designated as transmission system general new business expense. In as much as the transmission system could not and does not add new customers in the city limits of Laredo, no part of that item would be applicable to the city of Laredo, anyway.

Q. And you have eliminated that?

A. I eliminated that, and that is about half of that general office new business expense account, and for the other reasons that I have already stated, I have eliminated the balance of that account.

Mr. Coates: Now we at this time move to strike out this testimony for the same reasons stated in our objection.

The Court: Overruled.

Mr. Coates: Note our exception.

Q. You were also interrogated about the question of why you made that elimination of new business expense, as to whether or not that was necessary to hold old customers as well as an effort to secure new ones, and I believe you testified that in the transmission new business expense item there, they only had one or two customers; is that correct.

The Court: Read that question again (Question read)

Mr. Coates: It is understood our objection goes to all this line of testimony.

[fol. 1077] The Court: Did you ask any such question as that this morning?

Mr. Coates: I don't recall it; I hestitate to say as to that, whether I did or not.

(Off the record discussion between Court and Counsel.)

Q. In connection with that item of advertising expense you were interrogated about, and you made that elimination—as I understand you were asked the question whether or not that should not be allowed in there, because it was an effort to hold old customers as well as to try to secure new ones, and you testified you made certain eliminations of that item.

A. I testified that in my opinion, the new business expense was primarily——

Mr. Coates: Has a question been asked?

The Court: No.

Mr. Coates: Then we move to strike out the statement of counsel.

The Court: There was no question involved in what you said, Mr. Bobbitt, if I understood you.

Q. Why did you make that elimination?

Mr. Coates: Our same objection, to all this line of testimony.

The Court: Now, what was the objection?

Mr. Coates: The objection is that no proper predicate is laid for this line of questioning, which has the witness substitute his judgment for the judgment and discretion of the managing officials of the company.

[fol. 1078] The Court: I overruled it, and hold it proper cross examination.

Mr. Coates: Note our exception—This is their witness.

The Court: All right; it is their witness all right, but it is examining about what you did, instead of cross examination; I used that term inadvertently.

A. What was the question?

(Last question above read to witness.)

Mr. Coates: The same objection.

The Court: Overruled.

Mr. Coates: Note our exception.

A. I eliminated the general office new business expense applicable to the transmission system——

The Court: He is talking about the advertising.

A. The item of advertising is included in the new business expense, so that anything I say about new business expense includes advertising. Now, I eliminated the general office new business expense applicable to the transmission system for the reason that the transmission system does not have any industrial customers within the city limits of Laredo, and have eliminated the new business expense applicable to the distribution system, for the reason that I feel the general office new business expense should be applied to the new distribution systems rather than to the old systems, like Laredo.

Mr. Coates: It is understood our objection goes to all [fol. 1079] this line of testimony?

The Court: Yes.

Q. You were interrogated, Mr. Lewis, about this $33,000.00 repair or reconditioning item of the Jennings-Pescadito line, and you were asked if it wasn't true that both you, as auditor for the city, and Mr. Womack, as auditor for the company, had each eliminated that item. I will ask you whether or not that elimination was made by the auditor for the utility until you had called it to his attention in connection with your elimination?

Mr. Coates: Well now, of course, if he knows that of his own knowledge, as to when Mr. Womack——

The Court: I will sustain that objection, as to when they did it.

Mr. Bobbitt: I want to bring out, if the Court please, why it was done.

The Court: Why who did it? Why he did it, or the other fellow?

Mr. Bobbitt: I want to show why he eliminated it.

The Court: It doesn't make any difference which one called it to the attention of the other, or which did it first, but he testified that both of them had eliminated it.

Q. When did you make that elimination, Mr. Lewis, if you know?

A. I do not know exactly when I made the elimination. It was during the preparation of the exhibits.

Q. Had it been eliminated by the auditor for the utility at [fol. 1080] the time you made your elimination, if you know?

Mr. Coates: The same objection.

The Court: If he knows, I will let him answer that.

A. The item eliminated, of course was not set out on the company books. It is all charged into the maintenance expense, and any elimination that is made is necessarily made on the working papers of the one preparing statements from the books, and as to when the elimination was made in the preparation of the company's exhibits, I don't know.

The Court: It's five o'clock. We can quit now if you want to, or if you want to stay and ask a few more questions——

Mr. Bobbitt: I'm ready to quit for a while.

The Court: We will recess until nine o'clock in the morning.

Whereupon, at five o'clock P. M. March 22, 1934, said cause was recessed until nine o'clock A. M. March 23, 1934, 53rd District Court of Travis County.

[fol. 1081] Friday, March 23, 1934

Morning Session: 9:00 A. M.

Leon O. Lewis, a witness for plaintiff, resumed his testimony and testified as follows:

Redirect examination resumed.

Questions by Mr. Lange:

Q. Mr. Lewis, referring to Defendant's Exhibit 5, and particularly to Graph No. 3, we inquired of Mr. Womack to

supply the volume of gas covering the four periods of June 30, 1929, June 30, 1930, June 30, 1931, and July 31, 1932. Has Mr. Womack supplied those figures?

A. Yes, sir.

Q. Do you have them there?

A. You refer to the volume?

Q. Yes, of the non-recurring revenues.

A. Yes, I have those.

Q. Will you please give them to the stenographer?

A. The volumes of gas included in Defendant's Exhibit 5 applicable to the non-recurring revenues as given us by Mr. Womack: for the year ended June 30, 1929, 356,623 M. C. F.; for the year ended June 30, 1930, 485,359 M. C. F.; for the year ended June 30, 1931, 295,139 M. C. F.; for the year ended July 31, 1932, 76,962 M. C. F.

Q. Those figures represent the volume of gas as indicated [fol. 1082] in Defendant's Exhibit 5, Graph 3, the stacks beginning at the left, the top of the stacks in white, do they not?

A. The white portions of the stacks in Graph No. 3 represent non-recurring revenues. The figures I have just given represent the volumes of gas sold, which reflect the revenue shown in the white portion of the stacks in Graph No. 3.

Q. Now, referring to Plaintiffs' Exhibit 8, page 1, have you with the use of those figures furnished you by Mr. Womack adjusted first the gas sales appearing under Operating Revenues on your exhibit on page 1—Exhibit 8, page 1—gas sales?

A. I have computed what the total operating revenues would be after elimination of the non-recurring revenues, or the revenues designated by defendant's exhibit as non-recurring revenues.

Q. Have you that by years for the periods reflected in Exhibit 8?

A. Yes.

Q. Can you give us that for each year?

A. Yes.

Mr. Coates: We wish to make the same objection to testimony with respect to revenues and expenses for what we have denominated prior years—that is, 1929, 1930 and 1931—as having no bearing upon any issue in the case and relating to operating results under different operating and different economic conditions.

[fol. 1083] The Court: The objection is overruled.

Mr. Coates: Note the exception.

Mr. Lange: For the Court's information, this is their exhibit to which we were just referring.

The Court: All right.

Q. Will you give us those figures by years, Mr. Lewis?

A. The gross operating revenues as shown by Plaintiffs' Exhibit 8, after eliminating the items referred to in Defendant's Exhibit 5 denominated non-recurring revenues, would be as follows: For the year ended June 30, 1929, $222,516.93; for the year ended June 30, -30, $237,989.24; for the year ended June 30, 1931, $206,577.17; for the year ended July 31, 1932, $179,059.79; for the year ended December 31, 1933, $158,768.22.

Q. Now, will you give us the operating expenses, with the gas purchases eliminated, covering the alleged non-recurring revenues?

Mr. Coates: It is understood our objection goes to all this line of testimony?

The Court: Yes, sir.

A. If the gas purchases pertaining to the gas sold to non-recurring customers were eliminated from Plaintiffs' Exhibit 8, the operating expenses would be: For the year ended June 30, 1929, $118,368.34; for the year ended June 30, 1930, $137,731.40; for the year ended June 30, 1931, $112,370.46; for the year ended July 31, 1932, $109,973.16; for the year [fol. 1084] ended December 31, 1933, $93,298.46.

Q. Now the net return for each year before depreciation and income tax?

A. The net return before depreciation and income tax, after elimination of the non-recurring revenues, or the items designated by Defendant's Exhibit 5 as non-recurring revenues, and after elimination of the purchase price of the gas represented in those non-recurring revenues, would be: $104,148.59 for the year ended June 30, 1929; $100,257.84 for the year ended June 30, 1930; $94,206.71 for the year ended June 30, 1931; $69,086.63 for the year ended July 31, 1932; $65,469.76 for the year ended December 31, 1933.

Q. Now, Mr. Lewis, with reference to the rates of depreciation that the South Texas Gas Company and the Border Gas Company set up on its books from the time—from April, 1928—give us the rate of depreciation they set up in April,

1928, the annual rate of depreciation affecting these properties.

A. On the properties of the Texas Border Gas Company——

Q. That is the distributing company?

A. That is the distributing company—depreciation was set up at the rate of two per cent per annum until June, 1930. At that time there was a change in the method of computing retirement reserves, and from that date on there was no fixed percentage in computing retirement reserves; a reserve was set up in even amounts, which was a part of [fol. 1085] the total reserve set up for the entire United System.

Q. Then there was no direct rate of depreciation set up after that affecting any particular unit of their property?

A. No; the computations of the amounts needed for retirement for the United System were set up for the system as a whole and that amount was allocated to the various operating companies in the group, but there was no definite percentage in relation to the cost of the fixed properties. Now, the——

Q. Now, with reference to the—Proceed.

A. The transmission properties I have not given yet.

Q. Now, before we get off that two per cent rate that was set up, that was set up as affecting all the properties of the Texas Border or the South Texas Gas Company?

A. Just the Texas Border.

Q. Not any of their transmission or gathering properties?

A. The South Texas Gas Company—I don't seem to have the figures prior to 1930 in these papers; I can get it; I have it in some other papers. But 1930, the depreciation was set up on the South Texas Gas Company properties at a rate of three and three-fourths per cent per annum until——

Q. From what period and until what period?

A. The first figures I have in these particular papers are March, 1930. April 28, 1930. I will have to get the figures from another source.

Q. You have those among your work sheets?

[fol. 1086] A. Yes, sir; I have those among my papers. The rate of three and three-fourths per cent was used from March, 1930, to June. At that time the computation of retirement reserve was similar to that used in connection

with Texas Border Gas Company. A part of the United Gas retirement reserve was allocated to the South Texas Gas Company; it was not dependent on any rate as applied to the cost of the properties.

Q. Now, was there any separate rate of depreciation set up by them as affecting any gathering lines?

A. The rates I have given were applied to all of the depreciable properties. The gathering lines were computed at the same rate as the other properties.

Q. With reference to the period ended July 31, 1932,—the year ending July 31, 1932,—do you have figures reflecting the volume of gas per month that flowed through the Pescadito-Jennings line towards Laredo for that twelve-months period ending July 31, 1932?

A. I have a summary by months of the gas deliveries from the various wells delivering gas to the South Texas Gas Company transmission lines, taken from purchase invoices of the gas. Those invoices designate that the gas was delivered either to the Laredo line or the Monterrey line, so that I could tell by referring to those papers whether or not any gas in the Jennings area was billed to the Laredo line.

[fol. 1087] Q. Do you have those work-sheets?

A. The purchase invoices indicate that during the year ended July 31, 1932, there was only one month in which gas was delivered to the Laredo line from wells in the Jennings area.

Q. What month was that?

A. That was the month of August, 1932.

Q. Now, for the period—the year ended December 31, 1933. Oh, before we get to that, have you got the volume of that one delivery in M. C. F.?

A. The volume was 14,234 M. C. F., which was delivered from the Cuellar Brothers No. 1 Well. During the year ended December 31, 1933, there was delivered to the Laredo line at Pescadito Junction 27,431 M. C. F.

Q. Now, do you have the monthly deliveries for each—have you the deliveries for each month?

A. Yes, I think I have that. There was delivered at Pescadito Junction to the Laredo lines in May, 1933, 1,293, M. C. F.; in April, 1933, 1,694 M. C. F., in March '33, 1,347 M. C. F., in February, 1933, 1,472 M. C. F., January, 1933, 1,638 M. C. F.

Q. Those were the total deliveries——

A. Just a moment.

Q. All right.

A. In November, 1933, 8,176 M. C. F., and in December, [fol. 1088] 1933, 11,811 M. C. F. That is all I have.

Q. For the year ended December 31, 1933?

A. Yes, sir.

Q. You will get the figures from your work-sheets as to the rate of depreciation of the South Texas Gas Company prior to the period that you gave us to-day?

A. Yes. That is from April 10, 1928, to March, 1930?

Q. Yes.

A. Yes, I will get those.

Mr. Lange: I believe that is all.

Recross examination.

Questions by Mr. Coates:

Q. Mr. Lewis, do you know from your examination of the books of account of these companies in what year the control and management of these properties were transferred by the Moody-Seagraves interesfs to the Electric Bond and Share interests?

A. It was about the first of June, 1930; I am not sure of the exact date.

Q. Now, that was at or about the time, or within a year of the time of what is commonly known and described as the present depression, was it not?

A. Well, the depression started for some of us a good deal earlier than it did for others.

[fol. 1089] Q. But generally speaking——

A. Generally speaking, the depression started in 1929.

Q. All right. Now in order to—by the way, were any surplus accounts of these particular companies transferred with the properties?

A. You mean in April, 1928?

Q. No, I am talking about in 1930?

A. Well, there was no actual transfer of properties, so far as these two companies are concerned; it was an exchange in ownership of stock.

Q. Now, Mr. Lewis, as an accounting proposition, in order to have available amounts to set aside in a reserve for retirements and replacements, or for depreciation, you have got to have earnings for the accounting period after the payment of all costs of operation and after the payment of

bond interest, sinking fund requirements, and all other fixed charges, haven't you?

The Witness: Will you read the question, please, Mr. Reporter?

(Thereupon the Reporter read the last preceding question, as follows: "Q. Now, Mr. Lewis, as an accounting proposition, in order to have available amounts to set aside in a reserve for retirements and replacements, or for depreciation, you have got to have earnings for the accounting period after the payment of all costs of operation and after the payment of bond interest, sinking fund require-
[fol. 1090] ments and all other fixed charges, haven't you?")

A. The theory of depreciation reserves is to charge against the earnings each year a comparatively equal amount, so as to care for the retirements when they become necessary. This charge ordinarily is made to an operating account, which in turn is closed to surplus, so that if the company earnings before depreciation are not enough to take care of that reserve provision it would result in a transfer of a deficit figure to surplus.

Q. And if you do not pay the interest and sinking fund requirements on your bonds, why, those bonds are in default and you are subject to foreclosure, aren't you?

A. Yes, sir.

Q. Now, haven't you ascertain- it to be a fact that for several years these companies have been providing for their retirements and replacements by a retirement fund estimated to be sufficient to cover the retirements budgeted for the particular year?

A. That is my understanding of the method now employed by the companies.

Q. And have you ascertain- whether for 1933—1932 or 1933 these companies paid any income tax?

A. The taxes of the system, I understand—I haven't seen the tax returns—are filed as consolidated returns, but the
[fol. 1091] earnings of the South Texas Gas Company, particularly, would indicate that it was never subject to any income tax.

Q. You examined, for the purpose of determining gas deliveries through the Jennings-Pescadito line for the twelve months ended July, 1932, the purchase invoices, did you?

A. The invoices which were made to the South Texas Gas Company by the company selling the gas.

Q. Is it your testimony that no gas came through the Jennings-Pescadito line for Laredo in the month of March, 1932?

A. The purchase invoices of gas do not indicate any deliveries; there might have been some.

Q. Now, did you examine the charts on that Pescadito check-meter, or the records of such charts in the Measurement Department?

A. No, I didn't. I confined my examination in those years where the purchase invoices were rendered to the information contained on the invoices.

Q. And made no examination of the records in the Measurement Department to see whether any gas passed through that Pescadito check-meter in the month of March, 1932?

A. I didn't make any check at all of the Pescadito check-meter that year.

[fol. 1092] Q. Your attention was directed to the records in the Measurement Department as early as October or November, 1932, was it not, Mr. Lewis?

A. It was necessary this last year to examine those records, for the reason that since the South Texas Gas Company had merged with the United, and the Texas Border Gas Company also had merged with the United, the deliveries of gas to the town borders were no longer billed through invoices; so that in order to get the volumes delivered I had to check the Chart Department to get the information.

Q. For what period?

A. For the year ended December 31, 1933.

Q. But you did not check it for the twelve months ended July—didn't check the records in the Measurement Department for the year ended July, 1932?

A. No, sir.

Q. During either of the two periods, the year 1933 or the twelve months ended July, 1932, did you ascertain whether any gas was delivered from the Carolina-Texas field except into the Carolina-Texas Laredo line—that is, from wells connected with or under purchase contract by United?

A. No; I was interested only in the gas delivered to the old South Texas Gas lines, so that I made no examination [fol. 1093] at all of any gas deliveries in the Carolina-Tex field, other than to the Laredo line.

Q. And by your reference yesterday to deliveries from Bruni you did not mean to state that gas was being delivered from Carolina-Texas to Bruni and then down to Jim Hogg Junction during the period 1933 or the period ended July, 1932?

A. I don't remember making any reference at all to gas deliveries from Bruni.

Q. Well, I have it in my notes; perhaps you didn't. But from your investigation of deliveries from the Carolina-Texas field, both for the year 1933 and the year ended July, 1932, from wells connected with and under purchase contract with United companies, having been delivered into the Carolina-Texas Laredo line?

A. I don't know, Mr. Coates, whether there was any gas delivered to any other line or not.

Q. You don't know about that?

A. But all of the deliveries that I have checked were made to the Laredo line.

Q. At least in those periods you have not found any deliveries that were made to any other than the Laredo line?

A. No, because I was interested only in the gas deliveries to the old South Texas transmission lines.

[fol. 1094] Q. And during those two periods that I have been inquiring about that gas bore a gathering charge of one cent per M.C.F., did it not?

A. Yes, sir.

[fol. 1095] Q. Mr. Lewis, I show you what purports to be Journal Voucher No. J-10-157, and ask you if that is the Journal voucher which you examined with respect to the entry that you testified about of $934,000.00? (Which voucher was marked for purposes of identification only by the reporter "H.B. 3/23/34.")

A. Yes, it appears to be the voucher.

Q. Mr. Lewis, have you made the computations that you were asked to make with reference to transmission operations and maintenance expense on a three inch equivalent and lineal miles basis?

A. Yes.

Q. Please state the result of your computations into the record.

A. The transmission system operating expense per lineal mile, to the Jennings-Roma line was $276.69. To other lines in the South Texas area, $41.87. The transmission system

operating expense in terms of three inch equivalent miles, to the Jennings-Roma line, amounted to $69.52; and to the other lines in the district, $19.79. These figures are of course using the expenses as I have allocated them and the mileage figures furnished by the company.

The transmission system maintenance expense, to the Jennings-Roma line, amounted to $191.44, per lineal mile, and to the other lines, it was $28.97 per lineal mile. Expressed in three inch equivalent miles, to the Jennings-Roma line it was $48.10, and to the other lines $13.69.

Q. Now, in every case where you reduced those expenses [fol. 1096] to a common denominator, that is, three inch equivalent, the operations and maintenance expense per mile of three inch equivalent is four times or more for the Jennings-Roma line what it is for these other lines in the South Texas area?

A. According to the mileage figures furnished me——

Q. And that is not on a lineal mile but that is on three inch equivalent mile bases.

A. Well, it is hardly four times. It is between three and four.

Q. What is the maximum ratio?

A. The operations on the three inch equivalent miles is a little over three to one, and maintenance expense about four to one or a little over four to one.

Q. That's all.

Mr. Lange: That's all; we have no further questions.
The Court: Stand aside, Mr. Lewis.

(Witness excused.)

Henry E. Elrod, a witness for the Plaintiffs, being by the Court first duly sworn, testified as follows:

Direct examination.

Questions by Mr. Lange:

Q. Please state your name, age, your present place of residence and your occupation.

A. My name is Henry E. Elrod. I am 56 years old. I live [fol. 1097] in Houston, Texas, and I am a consulting engineer.

Q. Is that your occupation at the present time?

A. Yes.

Q. How long have you pursued that profession or occupation?

A. Practically since my graduation from school; or rather, I will modify that by saying that I graduated from school in 1901, and I followed my profession until 1912, when I entered the practice of my profession as a consulting engineer.

Q. What degrees, if any, do you hold, Mr. Elrod?

A. Bachelor of Science, in Electrical Engineering.

Q. From what school did you receive that degree?

A. From the Agricultural & Mechanical College of Texas.

Q. Will you state what has been your experience, or what character of work you have been engaged in from 1912, when you state you began actively to work in your profession.

A. Municipal engineering. Municipal utilities, such as water works and sewers, and light and power plants, and appraisals and street paving, and every type of engineering that had to do with municipal welfare.

Q. Has that work been done entirely in behalf of municipalities or privately owned interests, as distinguishing municipal from privately owned interests.

A. It has always been in the public interests—that is, for the municipalities as against private interests.

Q. Will you state the projects and the character of the projects that you had occasion to do this work on or for, in [fol. 1098] that period beginning with 1912 to now?

A. Since 1912 and to the present time, I have constructed or designed and supervised the construction of thirty water works systems, thirteen dams for water supplies, eleven reservoirs for impounding water, thirteen water filtration plants, nine deep wells, ten water supply reports, twenty-five sewer systems, forty-seven sewage treatment plants, thirty-four municipal paving programs, four county highway systems, the appraisal of thirty-four public utilities, sixteen geologic reports, eighty-four technical reports of various characters, totaling 324 engineering commissions.

The details of the work on water works systems for various towns in Texas and California and sewer systems, I estimate I supervised the construction—not all personally of course, but generally under my supervision—of approximately three million lineal feet of trenching and backfilling

or over five hundred miles. The dams I built consisted of earth works, concrete work, steel work and so forth. The public utility appraisals, were made as follows:

At Alba, Texas, water works system, for purchase. At Amarillo, Texas, water and light power company, for rate purposes—that was a federal case; that is, the case found its way into the federal court and I testified in that case. The appraisal of the Brunner, Texas, water works system for purchase by the City of Houston.

Coleman, Texas, the sewer system, for purchase.

[fol. 1099] Galveston, Texas; the Galveston electric and street railway properties, for rate purposes.

Brush Electric Company, at Galveston, light and power properties, for rate purposes.

The Galveston Gas Company, which was an artificial gas company, for rate purposes.

The Galveston Wharf Company, for purposes of taxation.

Gorman, Texas, water works system, for purchase.

Honey Grove, Texas, water works system, for purchase.

Houston Gas & Fuel Company, for rate purposes.

The Southwestern Bell Telephone & Telegraph Companies for rate purposes.

The Home Telephone Company, automatic telephone, at Houston, for rate purposes.

Houston Light & Power Company, for rate purposes.

Houston Electric & Street Railway Company, for rate purpowes.

Hubbard, Texas, water works system, for purchase.

Jacksonville, Florida, investigation of properties and operation of Jacksonville, Florida Municipal Light & Power Company, for City of Houston, for comparison.

Lockhart, Texas, water works system, for purchase.

Longview, Texas, Longview Light & Ice Company, for rate purposes.

Malone, Texas, water works system, for purchase.

Merkel, Texas, Electric Light & Power Company, for rate purposes.

[fol. 1100] Paducah, Kentucky, water works, for rate purposes.

Port Arthur gas works, for purchase; and that was an artificial gas works.

Ranger, Texas; Ranger Water Company, for purchase.

San Angelo, Texas, electric light and water works, for purchase.

San Marcos, Texas; San Marcos Utility Company, for rate purposes, and that was water works.

Taylor, Texas; the sewer system, for purchase.

Temple, Texas; Temple Gas Light Company, for rate purposes, and that was an artificial gas plant.

Tyler, Texas; the sewer system for purchase, and the water works system for purchase.

Wichita Falls, Texas; the Wichita Falls Gas Company, for rate purposes.

Dallas, Texas; the Dallas Telephone Company for rate purposes.

The total values involved in the above mentioned appraisals were approximately $100,000,000.00.

Q. Mr. Elrod, you stated that you are engaged in that work or profession at this time?

A. Yes.

Q. Were you so engaged during the years of 1931 and 1932?

A. Yes.

Q. And also in 1933?

A. Yes.

[fol. 1101] Q. Just state briefly what work, or when you began your work in connection with this Laredo rate case, and what you did.

Mr. Coates: May I ask Mr. Elrod a few questions along the line of his qualifications?

Mr. Lange: Yes, sir.

The Court: I think it would be permissible, yes.

Questions by Mr. Coates:

Q. Mr. Elrod, have you ever engaged in any responsible capacity in the operation of a natural gas property?

A. No, sir.

Q. Have you ever been engaged in a responsible capacity in constructing a natural gas property?

A. No, sir.

Q. And have you ever been engaged in a responsible capacity in the purchase of gas pipe or fittings?

A. No, sir.

Q. Mr. Elrod, you say you are a consulting engineer. Now are you an accountant?

A. No, sir.

Q. And you have had no experience as a practical operating man of gas properties?

A. No, sir.

Q. Are you a lawyer?

A. No, sir.

Q. Then you qualify here simply as a consulting engineer?

A. Yes.

[fol. 1102] Mr. Coates: We may have an objection, but we will make it at the proper time.

The Court: All right; go ahead, gentlemen.

Questions by Mr. Lange:

Q. Read the question I just asked, Mr. Reporter.

(Whereupon, the following question was read: "Just state briefly what work, or when you began your work in connection with this Laredo rate case, and what you did.")

A. I was first employed by the City of Laredo, by contract, on February 17, 1932, to assist the City's engineer in the preparation of an appraisal of the properties of the Texas Border Gas Company and the South Texas Gas Company, which are units of the United Gas System. At that time, the appraisal had already been made by the City Engineer, and I was simply to act as consultant with him in connection therewith and its presentation at a hearing to be held before the Railroad Commission. My second employment by the City of Laredo, was in the month of October, 1932, at which time I was engaged to prepare a new appraisal of the properties of the two companies just mentioned.

Q. And then what character of work, if any, did you do in connection with this appraisal.

A. I prepared an appraisal of the properties, based upon an inventory that was prepared by Mr. Neff and composed with the company's inventory, so that the items of property were reconciled.

[fol. 1103] Q. Have you since that time prepared an appraisal of the properties serving Laredo?

A. Yes, I have. Late in November, I was called upon by the City.

Q. November of what year?

A. November of the past year, 1933; I was called upon by the City of Laredo to prepare a new appraisal on the basis of prices as of December 31, 1933, and I prepared that inventory—or rather, that appraisal.

Q. I will ask you whether this is the appraisal which you have prepared?

A. Yes, it is.

Mr. Lange: We desire to offer it in evidence.

Mr. Coates: One or two futher questions, for the purpose of laying a predicate. Mr. Elrod, does the appraisal which you have identified and which you hold in your hand, represent your engineering estimate as to what it would cost to reproduce similar properties, if built under existing conditions, at the present time?

A. No, it does not. It purports to represent what the present properties are worth, as of December 31, 1933. That is, the identical properties.

Mr. Coates: Does it purport to represent the historical cost of those properties?

A. No, sir.

Mr. Coates: Are you offering this, Mr. Lange?

Mr. Lange: Yes, we desire to offer this appraisal in evidence.

[fol. 1104-1109] Mr. Coates: To which the defendant objects——

A. I did not quite finish my answer.

The Court: All right; go ahead.

A. It does purport to show, or rather the properties were priced out in view of the history of the company. It is not a historical reproduction, however. It is priced out on the basis of prices as of December 31, 1933, in view of the history of the company as it existed from 1910 on.

* * * * * * *

[fol. 1110] Questions by Mr. Lange:

Q. Mr. Elrod, please state how you proceeded in making the appraisal of the properties of the Texas Border and South Texas Gas Company, predecessors of the United Gas [fol. 1111] Public Service Company, now the owners of the property.

Mr. Coates: It is understood that our objection goes to this line of testimony.

A. In making the appraisal of the properties I endeavored to reproduce identical properties in the manner that they were originally produced, at present day prices; in other words, taking the properties as I found them, and in the light of such history and knowledge that I had of them, I applied the current prices to represent as nearly as possible the fair value of the Gas Company's properties as of December 31, 1933, in the reproduction of a substituted plant.

Mr. Coates: We renew the objection to all testimony relating to what is fair value of the plant, for each and all the reasons stated in our objection to this exhibit and in our objection to the particular part of the exhibit on page C thereof.

The Court: You are speaking of this exhibit now?

Mr. Coates: Yes, to Plaintiffs' Exhibit 9.

The Court: You understood, Mr. Coates, that there was one specific item that is objectionable and they withdrew it.

Mr. Coates: He stated his intention was to reflect and show the fair value of the property. We are objecting to that, and move that it be stricken and that the Court instruct the jury not to consider it.

The Court: I got confused. I thought you were referring [fol. 1112] to his testimony. The objection is overruled.

Mr. Coates: Note the exception.

Q. Now, Mr. Elrod, in proceeding to make that appraisal did you use prices of labor and material as of December 31, 1933?

A. I did.

Q. Turning to page A of Exhibit 9, headed "Allocation", I will ask you first whether the properties appraised lay all or just partly within the city limits of the city of Laredo?

A. Just partly within the city limits of the city of Laredo.

Q. Was it, therefore, necessary to allocate parts of the property out of the city?

A. Yes.

Q. In making this appraisal?

A. Yes. The transmission lines serve other communities as well as Laredo, and the distribution system inside the city serve outside the city as well as inside.

Q. Did you make an allocation of the properties?

A. I did.

Q. Serving the city?

A. I did.

Q. Referring to page A of the exhibit, explain it.

A. I took the total volume of gas in thousand cubic feet as provided by the Auditor for the year ended December 31, 1933, and the total volume of gas delivered to the city gate, divided the total volume of gas delivered to the city gate by the total volume of gas, which gave a percentage of [fol. 1113] the volume of gas to Laredo proper, which was 68.18 per cent.

Q. As appears on page A?

A. Yes.

Q. Does that refer to the transmission system properties?

A. That refers to the transmission system properties.

Q. Allocated to Laredo?

A. Yes, sir.

Q. Now, how did you proceed in reference to the distribution properties allocated to Laredo?

A. The distribution system is allocated on the proportion of volumes of gas inside and outside the city and the intermediate pressure system.

Q. Now, why did you use that method of allocation?

A. Well, that was the most logical method that we had to use, the closest bearing on the values or the proportion of property utilized. Perhaps we could have gotten it better if we had had the demand or knowledge of the demand inside and out, but we didn't have that.

Q. You didn't have the demand or load factor?

A. No, sir.

Q. To use. Then, how did you proceed in making the allocation with reference to the distribution system properties located inside the city of Laredo?

A. We took the total volume of gas in thousand cubic feet, the volume of gas inside the city in thousand cubic feet, the volume of gas outside the city in thousand cubic feet, [fol. 1114] divided the volume of gas outside the city by the volume of gas inside the city, which gave a percentage of 70.85 of the total as being allocatable to inside the city.

Q. Now, how did you proceed further in applying those allocations?

A. The percentage arrived at was 70.85. The appraised value of the intermediate pressure system was $91,397.00.

Q. Right there, explain what you mean by "the intermediate pressure system".

A. The intermediate pressure system is a system of eight inch pipe principally that passes through the city and distributes gas to the low pressure system. It also delivers gas to the outside of the city distribution system.

Q. Then in what way did you apply the factors in connection with the system?

A. Well, I took 70.85 per cent of the $91,397.00 to give the portion of the intermediate pressure system allocated to Laredo, which was $64,755.00.

Q. That gave you a total——

A. Added to the total of $506,399.00, which was the total appraised value of the distribution system, less intermediate pressure system, we get the total value of the distribution system allocated, which is $571,904.00; that is before depreciation.

Q. Then, what do the figures at the bottom of page A reflect, proceeding further?

[fol. 1115] A. They reflect a weighted average per cent for depreciation.

Q. What do you mean by "weighted average per cent"?

A. Well, the total figures in dollars divided—that is, the total allocated figures in dollars divided by the total appraised value will give the weighted per cent of both properties.

Q. Allocated to Laredo?

A. Allocated to Laredo.

Q. What is that weighted average per cent?

A. 85.27.

Q. That is reflected on page A of the exhibit?

A. On page A of the exhibit.

Q. And that is the per cent that you utilized in preparing this appraisal?

A. The allocated total properties to Laredo.

Q. Do you think that fairly represents the per cent to be applied to allocated properties used inside the city?

A. Yes, sir.

Q. In this case. Referring to page B of the exhibit, Mr. Elrod, "General Summary and Allocation, Transmission System", and then the headings of Cost New, Condition Per cent, and Cost New Less Depreciation. Explain those three

—what those designations are: first, Cost New, then Condition Per Cent, and Cost New Less Depreciation.

A. Well, we obtained first, of course, the cost new of the total properties.

[fol. 1116] Q. How did you go about doing that?

A. By preparing the inventory and pricing out the inventory items.

Q. Of the entire properties?

A. Of the entire properties, and then applying the per cent condition to the cost new to get——

Q. How did you arrive at the per cent condition of the properties?

A. By consideration of the age and life of the properties and inspection of its condition.

Q. An actual inspection of its condition?

A. An actual inspection, in conjunction with knowledge of the age and life of the various units of the property.

Q. Then you applied that per cent condition to the cost new?

A. Which gave the depreciated cost, or rather the cost new less depreciation.

Q. Or present per cent condition?

A. Or present per cent condition.

Q. On the transmission system, what does page B reflect on that?

A. It reflects the cost new, $359,128.00, and the depreciated cost, $263,063.00.

Q. And distribution system?

A. Distribution system, $597,736.00 new and $470,488.00 depreciated, or a total of $956,864.00 new and $733,551.00 depreciated.

Q. To those figures, how did you apply the allocation factors?

[fol. 1117] A. The last item about half way down the page before the division mark is noted Balance for Allocation of $897,471.00.

Q. How did you arrive at that total?

A. That was arrived at by deducting from the original total of $956,864.00 sums for property already allocated, which was furniture and fixtures, auto and equipment, and tools and equipment, and deduction of an amount for excessive purchase and storage, leaving a balance of $897,471.00 to be allocated to Laredo on the basis of 85.27 per cent.

[fols. 1118-1170] Q. $897.471.00 reflects the cost new——

A. Cost new.

Q. —as of December 31, 1933.

A. Yes.

Q. And the figure $686,923.00 represents the per cent condition—that is, the cost new less depreciation?

A. Yes.

• • • • • • •

[fol. 1171] Q. Then the total direct structural costs of the properties serving Laredo are how much?

A. The total allocated to Laredo is $783,712.00 cost new, and $596,524.00 cost new less depreciation.

Mr. Coates: It is understood that the objection which we made to the exhibit goes to all this testimony?

The Court: Every place you mention it it will be applied, Mr. Coates.

Mr. Coates: All right, but I am not applying it to this summary sheet here, which, obviously, is less than the opinion and order that they declare on.

The Court: Very well; a full bill will be allowed you.

Mr. Coates: Note our exception.

Q. Mr. Elrod, in addition to the direct structural costs of the properties that you have just testified about, have you also computed and taken into consideration intangibles also known as structural overheads that are involved in the [fol. 1172] construction or the reconstruction of this property?

Mr. Coates: We object to the term "intangibles", because it is an erroneous legal designation.

Mr. Lange: I disagree with Mr. Coates; it has been termed that way time and again in the books.

The Court: Now, wait just a moment. I want the Reporter to read the question to me.

Mr. Coates: And because it calls for the legal conclusion of this witness as to what constitutes "intangibles".

(Thereupon the Reporter read the last preceding question as follows: "Q. Mr. Elrod, in addition to the direct structural costs of the properties that you have just testified about, have you also computed and taken into consideration intangibles also known as structural overheads that are involved in the construction or the reconstruction of this property?")

The Court: I will sustain the objection; It is not up to him to determine what are intangibles.

Q. Well, I will ask you this, then, Mr. Elrod,—in the reconstruction of this property are there any other items of cost that would be included?

A. Yes, in the promotion and construction of practically every utility there are certain costs which are directly connected with the structural—the direct structural costs, as [fol. 1173] the cost of materials, and cost of labor, which costs can not be identified with any particular item, such as the preliminary and organization expense, and engineering and supervision during construction, and administration and legal during construction, and taxes during construction, and interest during construction. I have given consideration to all of those items because they have been costs that were no doubt borne by the Company in the pre-operation period or the period during construction, and which could not be at least totally taken care of in current operations.

Q. Turn to page 2 of that General Summary and Allocation of the exhibit—turn to page B of Plaintiffs' Exhibit 9—following the totals of the properties allocated to Laredo—direct structural costs of properties allocated to Laredo, you set up the item of Preliminary and Organization.

Mr. Coates: Now, we object.

The Court: Now, that is on what page—page D?

Mr. Lange: Page B, the second letter.

The Court: I see.

[fol. 1174] Mr. Coates: We object to this testimony and to the items which are now sought to be testified about, because no proper predicate has been laid in that the witness has not stated that these are the costs and the amount of the costs of this character which in his judgment would be incurred if the property were constructed today.

The Court: That can easily be corrected by a question; it will take you just about a minute to do that gentlemen, if this witness knows anything about that; I will sustain the objection unless you care to do that.

Mr. Lange: Well, we will ask the witness that question.

The Court: All right.

Q. In connection with this item set up on page B of your exhibit, preliminary and organization, engineering and supervision, administration and legal, taxes during construction and interest during construction, I will ask you whether the amounts set up by you on that page in your opinion would be the amounts that would be incurred if this identical property were reconstructed at this time?

A. I think so.

The Court: Gentlemen, you will pardon me, but I just can't find what you are talking about in my book.

Mr. Lange: Here on page B.

The Court: I have it now, thank you.

Q. Now, in your opinion, they would?

A. These are presumed to be or purport to be the costs at [fol. 1175] this time of the services under each item that would be rendered if the property were to be reconstructed at this time. I can not quite conceive of a situation where a plant would have to be blotted out and reconstructed, but the history of the situation would have to enter into the matter as to what would obtain. For instance, these costs in the percentages outlined would apply or would be applied to the original cost of the property, in 1910, which was approximately $167,000.00, and the same percentages applied now would of course represent very much larger expenditures on present day prices.

Mr. Coates: For the purpose of laying a predicate for further objection: Mr. Elrod, do the amounts which you have shown on page B of plaintiff's Exhibit 9, represent your judgment as to the dollar amounts of expense which would be incurred for preliminary and organization expense, engineering and supervision, administration and legal expense, taxes during construction and interest during construction which would be incurred if these properties were reconstructed at the present time?

A. I can not answer that question Yes, without modification to the effect that it would represent my judgment as to what the costs would be if the properties were constructed in the same manner as they were constructed.

Mr. Coates: Do you mean piecemeal over a 22 or a 23 years period?

A. Yes.

[fol. 1176] Mr. Coates: We renew our objection.

The Court: Overruled.

Mr. Coates: Note our exception.

Q. Proceed, Mr. Elrod, and give each item as you have made provision for it; we will not use the word "allowed".

A. Well, as I have said, there is no question but that some expenditure was made originally for preliminary and organization expenses, and in viewing the history of the situation to get at what a reasonable cost at that time would have been——

Mr. Coates: At that time?

A. — to bring down to the present as a percentage, we find that there was no very great amount of money spent at that time as there would not be now, because those things just are not done any more, but in 1908, when a well was being drilled for water on the Reiser ranch, about 22 miles east of the city, gas was encountered and a successful gas well was completed, and Mr. Reiser, I believe, and a Mr. Johnson, according to the records, applied for and received a franchise, in February——

The Court: Is that important, when that was done?

A. I think not.

The Court: Leave it out, then.

A. Anyhow, they paid nothing for the franchise, and——

Mr. Coates: Do you know that of your own knowledge?

A. No.

Mr. Coates: Then we move that the statement be stricken, that they paid nothing for the franchise.

[fol. 1177] The Court: The statement will be stricken, and (to the jury) gentlemen, you will in no way consider the statement of the witness that no consideration was paid for the franchise.

A. In view of the situation, I arrived at two percent of the then cost, as being representative of the fair cost paid at that time for the preliminary and organization expense, and two percent of the same thing at this time would represent $15,674.00, which I believe would be entirely adequate for preliminary and organization expense for a project of this size and under the circumstances.

Q. Then the next item, of engineering and supervision?

A. The next item, of engineering and supervision, was treated in very much the same way. Prior to the operation

of the company's properties, they no doubt had to employ an engineer and pay for his services, which was a charge to capital account. After the properties were put into operation, until 1928, with the exception of two engineering reports having to do with gas production, I believe, and one an appraisal report, there was no engineering charged to capital account, so far as——

Mr. Coates: Just a minute; now are you testifying as to what the books of the company show?

A. I am testifying as to what has been told me by my auditor with respect to the situation.

Mr. Coates: We objects to it as hearsay.

The Court: If he doesn't know himself; if it is hearsay; he can not testify to it.

[fol. 1178] Mr. Lange: He is testifying as to what was testified to in this case.

The Court: No, I understood him to say that he is testifying by what was told to him by his auditor.

Mr. Stout: He was working under the direction of Mr. Elrod, and working with him.

The Court: That wouldn't make any difference; my son is working with me, but I couldn't testify to something he might tell me.

Mr. Stout: We raised no objection to their Mr. Biddison's testimony, and he said he took Mr. Green's figures and said he had never been in Laredo.

Mr. Coates: No, he didn't say that. We move to strike that testimony to which the objection has been raised, and move the court to instruct the jury not to consider it.

The Court: Read that last part of the answer.

(Whereupon the following was read to the court: "After the properties were put into operation until 1928, with the exception of two engineering reports having to do with gas production, I believe, and one an appraisal report, there was no engineering charged to capital account. * * *")

The Court: Now was that what you say your auditor told you?

A. Yes.

The Court: That is stricken, and you will pay no attention to it, gentlemen of the jury, because it is purely hearsay and the witness admits it is.

[fol. 1179] Q. Referring back to that item of engineering and supervision, in your opinion would the amount set up by you of $19,593——

A. In my opinion, and in view of the knowledge I had of the situation, I believe 2½ percent, or $19,593.00 is adequate for the engineering work that was done.

Q. Or that would be done at this time?

A. Or that would be done at this time.

Mr. Coates: And that would be the engineering cost which would be incurred if these properties were reconstructed at this time.

A. As they were originally constructed.

Mr. Coates: If they were reconstructed at this time?

A. I am not assuming the properties are reconstructed at this time, because I can not conceive of a condition that would blot them out and necessitate their reconstruction. The fact of the business, however, was that engineering charges were paid for through operating expense, if there were any engineering charges paid.

Mr. Coates: Now, we move to strike that answer, because it is wholly immaterial to any issue in this case and it is obviously hearsay on his part, since he states he has not examined the books.

The Court: Let me ask him this question: Did I understand you to say that this two and one-half percent you have down here for engineering and supervision represents the amount which in your judgment as an engineer, after your [fol. 1180] inspection of the property and what you found out about it, is adequate for a reproduction of the property at this time, as it was constructed, when it was constructed?

A. Yes.

The Court: I overrule the objection.

Mr. Coates: Now, by that, you mean as it was constructed by piecemeal over a 22 year period?

A. Yes.

Mr. Coates: Then we renew our objection, because that is obviously not reproduction cost.

The Court: I have overruled it.

Mr. Coates: Note our exception.

Q. Proceed with the next item, Mr. Elrod, administration and legal expense; you have made provision of $11,756.00 for that item, have you not?

A. Yes, in my judgment that is adequate for legal and administration costs.

Mr. Coates: It is undestood our objection goes to all this line of testimony?

The Court: Yes.

Mr. Bobbitt: May we not understand that Mr. Coates just objects to everything?

The Court: No, sir; we do not understand that. Mr. Coates has not objected except where he wanted to and he has then stated it.

Q. The next item you have is taxes during construction, $3,919.00?

[fol. 1181] A. That is one-half of one percent of the total structural costs including land.

Q. And the next item of interest during construction; explain that item.

A. It is figured at 3½ percent. I have taken the construction period at one year, although the plant was really constructed in much less than a year, according to the testimony.

Q. I will ask you right there, if in your opinion the plant could be reconstructed in one year or less?

A. Yes, I think it could be constructed in one year or less.

Q. How did you compute this interest during construction?

A. At seven percent, for the cost of money, and the work progressing in reasonably even volume from the first month to the last month, making an average of there and one-half percent for the interest during construction.

Q. And that is $27,430.00?

A. Yes.

Q. Now, with reference to the items of administration and legal expense, engineering and supervision and interest during construction, your exhibit reflects first the cost new, and then the depreciated cost; is that correct?

A. Yes.

Q. On page 2 of each of those items?

A. Yes, those items depreciate along with the property that they are inherent with.

Q. Now, turn to page C, immediately following. You [fol. 1182] have the item of materials and supplies, cost new $19,744.00. Where is that taken from?

A. That is taken from page 56 of the transmission section, and page 96 of the distribution section.

Q. The total of the two?

A. That is correct.

Q. And is not depreciated?

A. It is not depreciated.

Q. Then, continuing further, you have an item called working cash 45 days of annual operations expense, less gas purchased. Will you please explain that item?

A. Well, the company must have some working cash with which to pay current bills and salaries, before the collections are made and so forth, each month, and they are entitled, or are usually allowed——

The Court: Let's leave out the "allowed."

A. Usually you give them 45 days of annual operating expense.

Mr. Coates: We object to the testimony as to what the companies are usually given.

The Court: Confine it to your judgment and experience as to what amount should be taken in this case.

Mr. Coates: And that answer should be stricken.

The Court: It will be stricken.

Q. In the light of your experience, what do you think is the correct amount that should be apportioned for that?

A. I think one-eighth of the annual operating expense, [fol. 1183] less gas purchased, which purchases are made from an affiliated company, or 45 days operating expenses, is sufficient. Of course, I have not had experience in operating a gas company, but I have had experience in managing large businesses, and I believe from my judgment that that is an adequate amount.

Mr. Lange: May we have a short recess.

The Court: We will take ten minutes recess.

(Recess had from 3:30 to 3:40 p. m.)

Q. Mr. Elrod, at the time the Court recessed, you were called upon to explain the item appearing on page C of the plaintiff's Exhibit 9, working cash, 45 days of annual operations expense less gas purchases. On that item you stated you had made provision for the sum of $9,788.00?

A. Yes.

Q. That is not depreciated?

A. No.

Q. Now, the figures on page C, totaling $891,616.00. What does that figure represent?

A. That figure represents the cost new as of December 31, 1933.

Q. Of what properties?

A. Of all of the properties of the defendant companies, used and necessary for serving gas to the City of Laredo.

Mr. Coates: Now, we object to that question, because it obviously calls for a conclusion of the witness, and no proper predicate is laid by showing he knows what properties are used and useful by the city of Laredo, and calls for a deter-
[fol. 1184] mination of an ultimate issue to be determined by the court and the jury.

The Court: I don't believe I got that question; read that question.

(Question is read to the court, and answer.)

The Court: You are answering that question on the basis of your judgment and experience as an engineer?

A. Yes.

The Court: Overrule the objection.

Mr. Coates: Note our exception, and we object for the further reason that the proper test is the property used and useful and not the property used and necessary.

Mr. Lange: That is a matter of opinion, too.

The Court: Overruled.

Mr. Coates: Note our exception.

Q. Now, the figure $690,261.00, that is under the column headed cost new less depreciation. That is the depreciation amount of the $891,616.00?

A Yes, that is the cost new less depreciation.

Q. Now, Mr. Elrod, in appraising these properties, I will ask you as an engineer, how did you appraise these properties?

A. I appraised them as a going entity, as properties in operation with buiness attached and connected to gas wells.

Q. In making this appraisal, Mr. Elrod, of these properties, you did not in this appraisal include any items composing what is known as the Jennings Pescadito transmission line, did you?

[fol. 1185] A. No, I did not.

Q. Why—give your reasons fully as an engineer.

A. In my judgment as an engineer and in view of my study of the situation and of the company's properties, I

did not feel that the Jennings Pescadito line was necessary to serve the city of Laredo, and the cost of maintenance was a burden that should not be imposed upon the city and the city should not be called upon to bear the principal of the cost, as a part of the rate base.

Mr. Coates: Now, just a minute; we object to that answer and move that it be stricken out, because obviously the reasons which he gave in support of his conclusion are not legally sufficient to support the conclusion he gave, and because no proper or sufficient or legal predicate has been laid for the conclusion stated, and because it states the legal conclusions of the witness with respect to these matters and not his engineering judgment.

The Court: Well if he stated it as a legal conclusion, it should be sustained, but I did not so understand it.

Mr. Lange: He said as his engineering opinion.

The Court: I overrule the objection.

Mr. Coates: Note our exception.

Q. Mr. Elrod, in connection with your appraisal in this case, did you ever have occasion to make an examination of the condition of that Pescadito Jennings transmission line?

A. Yes, I did.

[fol. 1186] Q. How did you go about it and when? Give all details in full, and if a proper predicate has not been laid, we want to lay it now.

A. On February 8th of this year, in company with Mr. Heins, the city engineer of Laredo, we went over the line from the junction of the highway or road to the camp at Jennings Junction and inspected the line all the way through.

Q. Now then, so the court and jury may understand the line we are speaking of, is the line that begins at the Pescadito check meter on this map the one?

A. Yes.

Q. And runs 26.68 miles down to what is termed Jennings Junction?

A. Yes.

Q. Is that correct?

A. Yes.

Q. A six inch line, the entire distance; is that correct?

A. That is correct.

Q. Proceed with your explanation.

A. We started about half way along the line, or just about the point on the map where the figures 26.68 miles are, where the road from Aguilares comes into the line, and followed it down to the Jennings camp, which is at the Junction of the Jennings Pescadito line, and the line which goes in a northeasterly direction through Jim Hogg Junction, inspecting the line going and coming. On another trip, we made similar inspections, but not so far down. Prior to that, I had made an inspection of the line some [fol. 1187] distance down the line, as far as I could go, from Pescadito Junction, where that check meter is on the map and later on I had come back from the road leading from Aguilares Junction to the line in a northwesterly direction to about the point where I had reached the first time, so that I covered all the line once and part of the line twice.

Q. What number of inspections did you make on that line, either you or those working under you and under your supervision?

A. Well, I don't know.

Q. Approximately the total number of inspections?

A. I could not make an approximation of the total number of inspections that we made. We made inspections at every hole that was open and every place that the pipe had been bared by erosion or otherwise, and some holes were dug in the first instance in connection with the investigation prior to the hearing in October and November of 1932.

Q. Do you have any memoranda that reflects the places of actual inspection with reference to mile posts along the line?

A. Yes, such as three big leaks between poles—mile 30 and pole 13, and mile 30 and pole 14; and from the gate, which is about three-quarters of a mile, from the Pescadito Junction to the gate, which is about three-quarters of a mile, there were eighteen leak clamps that I counted, and at pole 30 and 18, that is, mile post 30 and pole 18, there was one big leak that was whistling so that it could be heard for several pole lengths down the line. Then there was, from [fol. 1188] place to place, evidences of pipe having been taken out and replaced. The pipe at mile post 8, pole 18, was in bad condition, and at mile post 17, pole 18, there is a hot spot, five joints of pipe replaced. A clamp at mile post 16, pole 27, and a big leak at mile post 30, pole 22.

[fol. 1189] Mr. Coates: As of what date is this?

A. That was February 5th.

Q. Of what year?

A. Of this year. And there were clamps and leaks in two holes between poles 2 and 3, Mile 16; one section of pipe, 34-foot section, replaced between poles 25 and 26 on Mile 14; and one between poles 19 and 20 on Mile 14; two between 14 and 15, Mile 13; two between 5 and 6 on Mile 12; and one at Mile 11, pole 22. And then Mr. Heins made a list of—I seemed to have momentarily misplaced Mr. Heins' record.

Q. If you don't have it at this time, we can get it later.

A. I will get it for you.

Q. Do you have with you the join- report made by Mr. McGary and Mr. Greene, the Company's engineers, with reference to the per cent condition of that property?

A. Yes, sir. I have Mr. Heins' figures here now.

Q. You have Mr. Heins' figures?

A. Yes, sir.

Mr. Coates: Did you collaborate in making that?

A. Yes, sir.

Mr. Coates: Do you know whether what you are about to read is any duplication of what you have already testified to?

A. No, sir; it is not a duplication. Mr. Heins is here and can testify.

[fol. 1190] Mr. Coates: It doesn't cover any of the same?

A. No, sir.

Q. Go ahead, Mr. Elrod.

Mr. Coates: Please identify the mile posts, if you will.

A. At Mile 18, post 7, plus 15 feet, reconditioning of the pipe began, and this ended at pole 1, Mile 21, plus 165 feet.

Mr. Coates: When was that?

A. That was February 24th.

Mr. Coates: But when was the reconditioning?

A. The reconditioning was done during the summer of 1933.

Q. This is February, 1934?

A. Yes, sir. That distance is equal to 2.82 miles. At pole 16-27 plus 35 feet, 1 leak clamp; Pole 16-29, one 6-inch 36-foot old joint on ground.

Mr. Coates: You mean there was a joint of pipe lying along the right-of-way?

A. Yes, sir.

Q. That had been taken out of the line?

A. Yes, sir. We were checking up the test-holes that Mr. McGary had dug. He testified he dug one at every mile-post, and Mr. Heins' note is "apparently no test pit" at Mile 17. Mile 17, Post 17, four 6-inch 36-foot old joints on ground. Mile 17, Post 17, plus 160 feet, one leak clamp; Mile 17, Post 30——

[fol. 1191] Mr. Coates: If the Court please, we object to this testimony as being immaterial. The fact that there are joints of pipe taken out of the line along the right-of-way has to my mind no more relevancy to the existing condition of the line than the fact that there were a lot of railroad ties lying along the railroad right-of-way, which had been taken out of the track. It is the material in the line, or in the track, which shows its service condition and its service capacity, and not the property that has been retired and replaced; and I just fail to see the materiality of that character of testimony, and object to it as wholly irrelevant and immaterial, and not responsive to the question asked.

Mr. Lange: If the Court please, we are going to connect up the situation as now reflected with the report of their engineer and Mr. Greene's report of the nature of that line prior to the time it was reconditioned and at present, and connect it up and show what they found and what we found, and where they probably gave it a high condition, and the facts do not reflect that.

The Court: The objection is overruled.

Mr. Coates: Note our exception.

Q. Proceed.

A. Mile 19, post 11, plus 50 feet, old pipe bridge, valueless.

Mr. Coates: What is a pipe bridge?

A. It is a bridge built of salvaged pipe across an arroyo [fol. 1192] or draw for the service cars to pass over in riding the line and working on it.

Mr. Coates: It has nothing to do with the line itself?

A. All the bridges are included in the appraisal and are part of the property. At Mile 20, Pole 2, old 20-foot pipe bridge, valueless. Mile 20, pole 13, plus 125 feet, another pipe bridge, valueless. Mile 20, pole 14, reconditioning site, approximately 105 pieces of pipe on ground. Mile 20,

pole 16, plus 100 feet, old 20-foot pipe bridge, valueless. Mile 21, pole 18, plus 15 feet, one leak clamp. Mile 22, pole 4, plus 25 feet, old 40-foot pipe bridge, valueless. Mile 22, pole 11, leak clamp; pole 12, plus 100 feet, leak clamp; pole 13 plus 150 feet, old 20-foot pipe bridge, valueless; pole 15 plus 125 feet, old 20-foot pipe bridge, valueless. Mile 23, pole 5, leak clamp. Mile 23, pole 9 plus 100 feet, leak clamp; pole 16 plus 30 feet, leak clamp; pole 19 plus 100 feet, leak clamp; pole 21 plus 75 feet, leak clamp; pole 22, leak repaired.

The Court: Is it necessary to go down this whole line?

Mr. Lange: They, in their report, give it a 95 per cent condition, and their engineer says it is still in that condition. This is the only way we can refute that, and we want to refute it step by step. This is the only way we can show its condition. We don't want to burden the record, but [fol. 1193] we want to put in all the evidences of its condition as determined from our actual inspection of it.

The Court: If you want to go into it mile at a time, or foot at a time, all right.

Mr. Lange: We believe it shows the careful and painstaking inspection that was made.

The Court: Go ahead. I was just hoping you could leave out a few joints of it, though.

Q. Go ahead.

A. Mile 27, pole 5 plus 30 feet, leak and leak clamp; plus 60 feet, 1 leak clamp; plus 75 feet, 1 leak clamp; plus 80 feet, 1 leak clamp; plus 185 feet, 1 leak clamp. Mile 27, pole 6, plus 90 feet, leak and leak clamp; plus 100 feet, 3 leak clamps; pole 11, plus 100 feet, 2 leak clamps; pole 12, plus 15 feet, 1 leak clamp; plus 145 feet, 1 leak clamp; plus 160 feet, 2 leak clamps; plus 175 feet, 3 leak clamps. Mile 27, pole 13, plus 25 feet, 4 leak clamps; plus 40 feet, 2 leak clamps; plus 100 feet, 1 leak clamp; plus 140 feet, 1 leak clamp; plus 180 feet, 1 leak clamp. Mile 27, pole 14, plus 70 feet, 2 leak clamps; plus 100 feet, 1 leak clamp. Mile 27, pole 16, plus 170 feet, 1 leak clamp; pole 17 plus 60 feet, 5 leak clamps; plus 100 feet, 1 leak clamp. Mile 28, pole 2, plus 70 feet, 1 leak clamp; plus 80 feet, 1 leak clamp; pole 4 plus 25 feet, 1 leak clamp; pole 25 plus 150 feet, 2 leak clamps. Mile 29, pole 16 plus 150 feet, 2 leak clamps; pole 17, 2 leak clamps; plus 15 feet, 2 leak clamps; plus 60 feet, [fol. 1194] 3 leak clamps; plus 125 feet, 1 leak clamp; pole

18 plus 30 feet, 3 leak clamps; plus 60 feet, 1 leak clamp; pole 19, 1 leak clamp. Pole 22, 1 leak clamp; plus 10 feet, 4 leak clamps; plus 35 feet, 2 leak clamps; plus 85 feet, 1 leak clamp; plus 150 feet, 2 leak clamps; Mile 29, pole 23, plus 20 feet, 1 leak clamp; pole 26, plus 150 feet, 1 leak clamp; pole 28, plus 50 feet, 4 leak clamps; plus 75 feet, 1 leak clamp; plus 110 feet, 1 leak clamp; pole 29, 1 leak clamp. Mile 30, pole 1 plus 25 feet, 1 leak clamp; plus 50 feet, 2 leak clamps; plus 150 feet, 2 leak clamps; plus 160 feet, 2 leak clamps; plus 175 feet, 2 leak clamps; pole 2 plus 150 feet, 1 leak clamp; pole 3, 1 leak clamp; pole 4 plus 60 feet, 1 leak clamp; pole 7 plus 125 feet, 1 leak clamp; plus 130 feet, 1 leak clamp; pole 13 plus 100 feet, 3 leak clamps; plus 110 feet, 3 leak clamps; pole 14 plus 50 feet, 1 leak clamps; pole 15, 3 leak clamps; pole 16 plus 75 feet, 1 leak clamp; pole 17 plus 150 feet, 1 leak clamp; pole 18 plus 40 feet, 1 leak clamp; plus 45 feet, 1 leak clamp; plus 50 feet, 2 leak clamps; plus 60 feet, 2 leak clamps. Mile 30, pole 20, plus 50 feet, 1 leak clamp; plus 60 feet, 1 leak clamp; plus 150 feet, 1 leak clamp; pole 21, two leak clamps; plus 150 feet, 1 leak clamp; pole 22 is a leak that I had previously reported.

Q. Mr. Elrod, it was testified in this case by the Company engineer Greene that a portion of that pipe during the year 1932 was taken out, or was reconditioned, as he called it; do you know between what mile posts that pipe was reconditioned?

[fol. 1195] A. Yes, sir. It started 60 feet approximately north of Pole 7, Mile 10, to 85 feet approximately north of pole 26, Mile 14; estimated distance of—I haven't got that figure. That is 4 miles and 19 poles, taking 175 feet between poles—about 4 miles and 3345 feet, approximately.

[fol. 1196] Q. In connection with the reconditioning work that was done on that line, do you know how many lineal feet of pipe were taken out of the line and not put back?

A. No, I don't.

Q. Well, we will get that if you don't know. Now, then, with reference to the condition of that line at the time of the hearing before the Commission in 1932 there was an analysis of depreciation and estimated condition of the pipe in evidence and testified to by Mr. McGary and at this time corroborated by Mr. Greene, the Company's engineer. If you will look at the page referring to the Pescadito-Jen-

nings Texaco asphalt wrapped lines—that is the Pescadito-Jennings transmission line——

A. Yes, sir.

Q. What per cent condition is given at each mile-post along that whole line? Give the mile-post and then the per cent.

A. Mile-post 5, 75 per cent; Mile-post 6, 95 percent; Mile-post 7, 95 per cent; Mile-post 8, 95 percent; Mile-post 9, 94 per cent; Mile-post 10, 94 per cent; Mile-post 11, 80.7 per cent; Mile-post 12, 64.7 per cent; Mile-post 13, 95 per cent; Mile-post 14, 95 per cent; Mile-post 15, 95 per cent; Mile-post 16, 95 per cent; Mile-post 17, 87.1 per cent; Mile-post 18, 82.9 per cent; Mile-post 19, zero; Mile-post 20, 94 per cent; Mile-post 21, 91.4 per cent; Mile-post 22, 94 per cent; Mile-post 23, 94 per cent; Mile-post 24, 94 per cent; Mile-post 25, 94 per cent; Mile-post 26, 94 per cent; Mile-post 27, 94 per cent; Mile-post 28, 94 per cent; Mile-post 29, 95 per [fol. 1197] cent; Mile-post 30, 94 per cent; Mile-post 30, Pole 25, 94 per cent.

Mr. Coates: Are those the only per cent condition figures given in connection with that line in the exhibit from which you are reading?

Mr. Lange: There is an average percent, you can read that if you wish.

A. The total of the percentage is given as 2369.8 and the number of items given is 27, and the division as given is 87.8 per cent as the average condition.

Mr. Coates: What with reference to the protective coating on the pipe?

A. The estimated protective coating is 52.8 per cent average.

Mr. Coates: That is, it was given with the pipe itself?

A. Yes, sir.

Q. Now, with reference to the particular mileposts where the reconditioning occurred, will you give the percentages given in this report at those mile-posts?

A. At Mile-post 11, 80.7 per cent; at Mile-post 12, 64.7 per cent; at Mile-post 13, 95 percent; at Mile-post 14, 95 per cent, and on the upper end, do you want that also?

Q. Yes, sir, wherever reconditioning work occurred this last year.

A. Mile-post 19, zero; Mile-post 20, 94 per cent; Mile-post 21, 91.4 per cent.

Mr. Lange: Will you give us just a minute, Your Honor?

[fol. 1198] The Court: We will take five minutes recess, gentlemen. If you want to walk out of the room, all right.

Recess.

The Court: All right, gentlemen, if you are ready.

Q. Mr. Elrod, in connection with the preparation of the appraisal reflected in plaintiff's exhibit 9, you did not set up a separate item for going value, did you?

A. No, sir.

Q. Why?

A. Because I did not consider that there was any basis for a going value. My judgment in having allowed what I conceived a full structure overhead cost——

Mr. Coates: We object to the statement "allowed". He is not a court or jury or commission.

A. I beg your pardon. I have estimated——

The Court: The word "allowed" is changed to "estimated".

Q. Or you might say made provision for or something.

The Court: Go ahead.

The Witness: Will you read me what I said?

(Thereupon the Reporter read the last preceding answer of the witness, as follows: "Because I did not consider that there was any basis for a going value. My judgment in having allowed what I conceived a full structure overhead cost——")

[fols. 1199-1218] The Court: Now, you are changing that word "allowed" to "estimated" there?

Mr. Lange: Yes, sir.

A. Now, where there had been no evidences of expenditures for going concern values, I have not credited the estimate with going concern value.

Q. You made no separate allowance for that item?

A. Made no separate allowance for it.

Q. I mean no separate provision.

A. I beg your pardon again. No separate provision. In my estimates after having considered that the property was evaluated on the basis of a concern that was operating—

an operating entity and going and having business attached. When the company started off its operations, it had business.

Mr. Lange: I believe that is all, Mr. Elrod, for the present.

Mr. Coates: Are you through with this witness?

Mr. Lange: Yes.

* * * * * * *

[fol. 1219] Q. Mr. Elrod, referring to page B of Plaintiffs' Exhibit 9, and to that item on page B styled Engineering and Supervision, 2½ per cent, $19,593.00,—do I understand it to be your testimony that 2½ per cent of the direct construction costs, or $19,593.00, constitutes and represents your engineering judgment of the amount of costs which would be incurred for Engineering and Supervision if properties similar to these were to be reconstructed to-day?

A. I believe I testified on yesterday that I had not made such an estimate, but that my estimate was made on the basis of these particular properties, or this particular property, constructed as it was constructed; that in 1910 $167,000.00 worth of the property was constructed; and after that time during the operations of the property, up to 1928——

Q. Now, just a minute. You are getting onto a point as to which an objection was sustained yesterday. I believe my question is reasonably clear. If you didn't understand it, I will ask the Reporter to read it to you. Please read the question I asked, Mr. Reporter.

[fol. 1220] (Thereupon the Reporter read the last preceding question, as follows: "Q. Mr. Elrod, referring to page B of Plaintiffs' Exhibit 9, and to that item on page B styled Engineering and Supervision, 2½ per cent, $19,593.00,—do I understand it to be your testimony that 2½ per cent of the direct construction costs, or $19,593.00, constitutes and represents your engineering judgment of the amount of costs which would be incurred for Engineering and Supervision if properties similar to these were to be reconstructed to-day?")

Q. Can you answer that question, Mr. Elrod?

Mr. Bobbitt: Go ahead and answer it.

A. If the properties were blotted out and had to be reconstructed new to-day, starting from 'scratch', so to speak, I believe that the engineering service would cost more.

Q. How much more?

A. I think the fee would probably be on the total properties something like three and one-half per cent.

Mr. Bobbitt: Had you finished your answer to the first question he asked you, Mr. Elrod?

The Witness: Yes, sir.

The Court: Gentlemen, wait just a moment. I have a long distance telephone call that I want to respond to.

Mr. Coates: Yes, sir.

(Recess.)

[fol. 1221] (10:05 A. M.—After Recess)

Q. Now, does that three and a half per cent cover engineering?

A. Engineering and supervision.

Q. What character of supervision?

A. Engineering supervision, which means inspection to see that the work is properly done.

Q. What character of engineering expense and service does it cover?

A. The plans with the rights of way indicated and the line for the pipe line with a map very much the same as this, with details at points of connections, valves, and so on.

Q. Have you ever assembled an engineering crew for the construction of a natural gas property?

A. I have not.

Q. Have you ever studied any cost data showing the engineering costs actually incurred in connection with the construction of a gas transmission and distribution system property such as this?

A. I don't believe I have.

Q. Now, this supervision which you have got here, does that cover any superintendent of construction?

A. No.

Q. It simply covers engineering supervision, does it?

A. Yes, sir.

Q. Now,——

A. Before we get off the question, Mr. Coates, if I may,

[fol. 1222] I had not quite finished my answer to your first question, and if the Reporter will read that to me——

Q. All right, if the same Reporter is here.

Mr. Bobbitt: Can't you remember the question that was asked?

Q. What you stated was, as I recall it, that if these properties were to be reconstructed today you were inclined to think that the cost of engineering would be three and a half per cent.

A. Prior to that time you had asked me another question, and the question I had in mind to answer and was answering was that I could not conceive of these properties being blotted out over night and having to be reconstructed at this time; that the engineering fee indicated here represented my judgment as to the engineering that would be fairly represented by the conditions under which the property was constructed and that no more than this has ever been spent and that it is contrary to my——

Q. Now, wait a minute, Mr. Elrod. Are you testifying as to what has been spent historically and capitalized with respect to this property?

A. Yes, sir.

Q. Have you examined the books of the company?

A. Yes, sir, the records that were furnished me by the Auditor.

Q. You have not examined the records?

A. Not the books, but the reports of my Auditor.

[fol. 1223] Q. You have examined some reports that he has furnished you?

A. Some reports that he has furnished me and entered in this record.

Mr. Coates: We object to this as hearsay.

Mr. Bobbitt: He asked for his judgment and experience.

Mr. Coates: He is now stating hearsay.

Mr. Bobbitt: He is trying to give it to him.

Mr. Coates: It is objected to as hearsay.

The Court: How is it hearsay, Mr. Coates?

Mr. Coates: Statements that he is making, which he in turn got from some working sheets or working papers.

The Court: Isn't it stating an opinion upon what he has heard?

Mr. Bobbitt: Yes, sir.

Mr. Coates: Yes, and that in turn——

The Court: He is entitled to base an opinion upon what he has heard. Maybe he don't know as much as some other fellow knows about it.

Mr. Bobbitt: He is trying to tell it.

The Court: It is based on what he learned from others.

Mr. Coates: Note the exception.

A. My knowledge of the situation from the record and a study of the history of the company indicates to my mind that the sum included, $19,593.00 cost new, is a fair figure for the engineering in this particular instance, and I don't [fol. 1224] believe that it is right to burden his property——

Q. Now, wait a minute.

Mr. Coates: We object to that statement, and particularly the statement that it is a fair figure for this property.

The Court: That is his opinion, Mr. Coates.

Mr. Coates: We object to it because that invades the province of the Court and jury. He is here to give his engineering opinion as to what these costs of engineering would be, not what should be fairly allowed by some Commission, court or jury.

Mr. Bobbitt: He has given his opinion, if the Court please, what he thinks it ought to be. They have one figure. His figure may not agree with that.

The Court: Gentlemen, you didn't object—I was going to sustain you, but you went off on something else. I don't think that is objectionable. Go ahead.

A. I don't think it is right to burden these properties with costs that have never been incurred or that might never be incurred, under conditions which do not exist and may never exist—entirely hypothetical—and my judgment is in this case, and has been in many other cases, that the actual costs as nearly as they are ascertainable, brought down to represent figures of today, are the proper figures to be used, and that is the figure that I have used here.

Mr. Coates: Now we move to strike all that out because [fol. 1225] not responsive to the question asked and because it is based on an erroneous legal conception and prejudicial to the rights of this defendant.

The Court: I would like to ask the wtiness a question before I pass on it. You say you don't think it is right. Do

you mean right as a legal proposition or from an engineering proposition?

A. From an engineering and equitable proposition.

Mr. Coates: Engineering and equitable proposition. We renew our motion.

Mr. Bobbitt: You mean equitable from an engineering standpoint?

A. From an engineering standpoint. I do not believe an engineer has a right to put in figures that he does not conclude are right and proper to put in.

Mr. Fitzhugh: If the Court please, this is all an explanation of how he proceeded in making his appraisal. Everybody recognizes that he is not to decide the case.

The Court: I hope nobody thinks I do not understand what the witness is trying to do. The question is whether his testimony is admissible.

Mr. Lange: If it is predicated on his judgment as an engineer, it seems to me that it certainly is admissible, and he has put it on that basis now, as I understand it.

The Court: Will the Reporter read the witness' answer?

[fol. 1226] (Thereupon the Reporter read as follows: "A. I don't think it is right to burden these properties with costs that have never been incurred or that might never be incurred, under conditions which do not exist and may never exist—entirely hypothetical—and my judgment is in this case, and has been in many other cases, that the actual costs as nearly as they are ascertainable, brought down to represent figures of today, are the proper figures to be used, and that is the figure that I have used here. Mr. Coates: Now, we move to strike all that out because not responsive to the question asked and because it is based on an erroneous legal conception and prejudicial to the rights of this defendant. The Court: I would like to ask the witness a question before I pass on it. You say you don't think it is right. Do you mean right as a legal proposition or from an engineering proposition? A. From an engineering and equitable proposition. Mr. Coates: Engineering and equitable proposition. We renew our motion. Mr. Bobbitt: You mean equitable from an engineering standpoint? A: From an engineering standpoint.

I do not believe an engineer has a right to put in figures that he does not conclude are right and proper to put in.")

Mr. Coates: On the further grounds that it is based on an erroneous legal conception and is an attempt by indirection to get into the record hearsay testimony.

The Court: I overrule the motion to strike.

Mr. Coates: Note the exception.

Q. Now, Mr. Elrod, do you subscribe to the proposition that a reproduction cost appraisal is a matter of engineering estimate to reflect what it would cost to reproduce a similar property if constructed today—that is, similar in all respects to the properties here in question?

A. Perhaps—well, I have not made any such estimate.

[fol. 1227] Q. You haven't made any such estimate?

A. I made an estimate on——

Q. Well, let me ask you——

Mr. Bobbitt: Let him finish his answer.

Mr. Coates: He says he has not made any such estmate.

Q. Does Plaintiffs' Exhibit 9 constitute such an estimate?

Mr. Bobbitt: The witness did not finish his answer, and I think he ought to be permitted to do so. Counsel ought to let him finish that question before he gigs him with another, if the Court please.

The Court: Gentlemen, if you don't think I am a little mean, I think the witness started in before the lawyer finished, and I know you started in, Mr. Bobbitt, before either of them had a chance to say anything. Had you finished your answer?

The Witness: Let him read it.

(Thereupon the Reporter read as follows: "Q. Now, Mr. Elrod, do you subscribe to the proposition that a reproduction cost appraisal is a matter of engineering estimate to reflect what it would cost to reproduce a similar property if constructed today—that is, similar in all respects to the properties here in question? A. Perhaps—well, I have not made any such estimate. Q. You haven't made any such estimate? A. I made an estimate on—— Q. Well let me ask you——")

The Court: Go ahead.

A. The question is an involved one and it is not susceptible of just an answer right offhand.

The Court: Very well. I will ask the lawyer to break it [fol. 1228] up for you.

A. There are a number of concepts of what a reproduction appraisal is, how it is to be made——

The Court: Wait a minute. He asked you what was your conception; that is the question.

Mr. Coates: And I outlined a concept to him and asked him if that was his conception.

Mr. Fitzhugh: If the Court please, if the witness wants to qualify his answer, why can't he do that?

Q. I will repeat the question, Mr. Elrod. Do you subscribe to the proposition that a reproduction cost appraisal constitutes an engineering estimate of what it would cost to reproduce a property similar in all respects to the properties here in issue—that is, the transmission lines and the distribution system—if constructed at the present time?

A. Not exactly. I prepared an estimate on——

Q. Now, I am asking you for your concept.

The Court: He said "Not exactly".

Q. Well, what is your concept?

A. My concept is represented by the fact that I prepared an estimate, not on similar properties but these identical properties as they exist today, without considering that they have been wiped out.

Q. Does Plaintiffs' Exhibit No. 9 represent, in your engineering judgment, what it would cost to reproduce these or similar properties if they were to be rebuilt today?

[fol. 1229] A. I believe I stated that I could not conceive of that condition. My estimate is based on these identical properties—that is, these properties as of December 31, 1933.

Q. Do you mean to say that as an engineer you can not conceive of building a transmission line today such as the transmission line from Carolina-Tex. to Laredo, the one that actually exists?

A. I don't believe that such an one could be actually reproduced in all of its elements, because perhaps some of

the materials that enter into it could not be had—type of materials.

Q. What type of materials?

A. Well, I don't know that there are any such type of materials, but it is possible that there are weights of pipe that have been abandoned since the line was constructed.

Q. Well, now, are you testifying to facts or to possibilities?

A. Possibilities.

Q. Well, is it possible for you as an engineer to conceive of a construction project which would involve the six inch line from the Carolina-Tex. field to Pescadito Junction and then a line composed of eight, ten and twelve from Pescadito Junction to Laredo and composing the same materials and the same weight of pipe as is contained in that line at the present time as reflected by the inventory?

A. If these same weights of material and character could [fol. 1230] be obtained——

Q. Then you can't—well, excuse me; I don't mean to break in on you.

A. Why, one could make an estimate of the cost of constructing such a line, but I have not prepared such an estimate. I prepared an estimate of what this line, in my judgment, cost to construct.

Q. As historically built?

A. As in figures of today—that is, historically built on today's prices.

Q. Now, can you conceive, as an engineer, of constructing in the city of Laredo a property such as the distribution system property that now exists in Laredo?

A. Yes, such a property could be constructed if this property were removed, but such a thing could not happen.

Q. Well, can you conceive of such a thing, Mr. Elrod, as building a gas distribution system in a town or city such as Laredo of the kind and character that exists there now?

A. Yes, that has been done—that is, that system has been built.

Q. Can you conceive of it?

A. Well, I have made no such estimate—that is, I have prepared no estimate to rebuild this line. I have simply appraised the properties—the identical properties that have been found to exist at this time, as of December 31, 1933.

Q. Then that part of Plaintiffs' exhibit 9 relating to [fol. 1231] transmission system properties, as I understand you, does not represent your engineering estimate of what it would cost to build a line similar in all respects to that transmission line if built today?

A. Not exactly. My estimate reflects what it would cost, or rather what the identical properties there cost as of January 31, 1933.

Mr. Bobbitt: December 31.

A. December 31, 1933.

Q. Nor does Plaintiffs' Exhibit 9, in so far as it relates to distribution system properties, represent your engineering estimate of what it would cost to reproduce and build and construct a distribution system similar in all respects to that now existing in Laredo if built today?

A. No; my estimate is only of what the existing properties—the identical properties—are worth as of December 31, 1933.

[fol. 1232] Mr. Coates: Now, we renew our objection at this time for the reason that it is apparent at this point from this witness' testimony that Plaintiff's Exhibit 9 does not represent a reproduction cost appraisal as the term reproduction cost new and reproduction cost new less depreciation is used in connection with appraisals and to constitute one element of fair value.

The Court: The motion is overruled.

Mr. Coates: Note our exception.

Q. Now, Mr. Elrod, as a matter of fact, isn't it your opinion that the cost of engineering and engineering supervision on this job, if these properties were reconstructed today, would be five per cent?

A. It would be rather difficult to say what the costs would be under those circumstances, if these properties were to be reconstructed. Perhaps the engineering would be—well, I just don't know.

Q. You just don't know?

A. No.

Q. Well, it is something that has been done many times in the last decade, has it not—the building of a transmission system into a town and the building of a distribution system?

A. Yes, but the reconstructing of this system is an entirely different thing, a different proposition. What it would cost to build a transmission system and a distribution

system of similar magnitude new, would perhaps cost around 3½ per cent. I have forgotten just exactly what the [fol. 1233] American C. E.——

Q. Well, I am asking you your judgment on it.

A. Well, my judgment is it could be done for that. I would do it for that.

Q. And isn't it a fact that you have set up two and one-half percent of direct construction costs in Plaintiff's Exhibit 9 because someone has told you that as this property was constructed historically, over a period of 23 years, a part of the engineering work was done by engineers carried on the operating payroll?

A. Yes.

Q. That is a fact. And isn't it your judgment (and I don't think you gave a direct answer to this question) that if similar properties to these were reconstructed today the cost of engineering and engineering supervision would be five percent?

Mr. Bobbitt: Are you interrogating from a transcript of the testimony had before the commission, Mr. Coates?

Mr. Coates: No, but I am just before doing it.

Mr. Fitzhugh: We object to that question, may it please the court——

The Court: Overrule the objection.

Mr. Fitzhugh: He is asking a question, may it please the Court, for the construction of a similar plant. Now does he want a substitute plant built here?

Mr. Coates: No, similar in all respects to this, if built today.

[fol. 1234] Mr. Fitzhugh: Why not build the identical plant, then?

Mr. Coates: It is similar in all respects.

The Court: The objection is overruled.

Mr. Bobbitt: Read that question to the witness.

(Whereupon the following question was read to the witness: "Isn't it your judgment that if similar properties to these were reconstructed today the cost of engineering and engineering supervision would be five percent?")

A. The design and supervision of construction of work, transmission lines and distribution system of the magnitude of these lines, it probably would be.

Q. Probably would be.

A. I did not arrive at the——

Q. Now, I don't want to cut you off from any explanation, but I believe your answer is responsive, and I don't want you to volunteer unless it is necessary.

Mr. Bobbitt: Is it necessary in your opinion to explain your answer, Mr. Elrod, to make it clear to the Court?

Mr. Coates: Well, we have this witness on cross examination.

Mr. Bobbitt: He says he doesn't want to cut him off, and then he does it time and again.

Mr. Coates: We object to the remark of counsel, because it is prejudicial and ask the court to instruct the jury.

The Court: The witness is on cross examination and on recross or on redirect examination, you may get all the explanation you want, gentlemen. Go ahead.

[fol. 1235] Q. Have you ever made an appraisal of a natural gas property other than the property there at Laredo?

A. Yes.

Q. How many?

A. One, I believe. The Wichita Falls property.

Q. How much did you—was that a natural gas distribution system in the city of Wichita Falls?

A. Yes.

Q. About how large was Wichita Falls at that time?

A. I do not recall.

Q. And in that appraisal, wasn't it your engineering judgment that an amount of five percent was a fair or a proper amount to represent the cost of engineering and engineering supervision?

A. That work was done in 1923, as I recall, and my recollection of it is quite hazy. I believe you have a copy of my report on that, and whatever I said in that report I subscribe to.

Q. I've got one, but I forgot to bring it with me, but I will get it here.

A. I would like to qualify that statement—that I have changed my mind several times since I made that report, about various and sundry matters and policies.

Q. As a matter of fact, Mr. Elrod, isn't the ten percent which you show here on page B of Plaintiffs Exhibit 9 the lowest over-all aggregate amount for undistributed construction costs which you have ever included in any appraisal of gas properties, other than this one?

[fol. 1236] Mr. Bobbitt If you recall.

A. That I recall—it is as low as any of them.

Q. Well, isn't it the lowest?

A. I don't know that it is.

Q. Now, Mr. Elrod, in the course of a construction job such as reconstructing these properties, when would the cost of the engineering be incurred?

A. It would be incurred prior to the construction of the properties.

Q. Prior to the construction of the properties. And when would the preliminary and organization expense be incurred?

A. Prior to the construction of the properties.

Q. And what, with respect to the administrative and legal expense?

A. The same thing.

Q. And in other words, the money would have to be provided and paid out for those costs, prior to the construction of the work. Now, have you included herein in your estimate of interest during construction, any interest during construction on the cost of engineering and supervision, preliminary and organization expense, or administration and legal expense?

A. No, sir.

Q. Those are an inevitable and concommitant part of the costs of construction, are they not?

A. Yes.

Q. And you pay out money for them in the same way as you pay out money for pipe and meters, do you not?

A. Yes.

[fol. 1237] And you have computed your interest during construction on materials and costs of installation—that is, direct costs of installation, haven't you?

A. Yes.

Q. But you have not computed any interest during construction on the undistributed construction costs?

A. No.

Q. Now, Mr. Elrod, isn't it a fact that what you did here was to simply take ten percent of the direct construction costs and divide up that ten percent arbitrarily between the five items which you show for undistributed construction costs?

A. I believe I so testified in the original case, and that is a fact.

Q. That is a fact now, is it?

A. Yes.

Q. And have you made any analysis or breakdown of the operations and functions causing costs which would enter into each classification of undistributed costs?

A. No.

Q. And as I understand your testimony, the amount of these undistributed costs is not based on any actual construction experience that you have had, in connection with natural gas properties?

A. Not in connection with natural gas properties. I have had experience——

Q. Nor is it——

[fol. 1238] Mr. Bobbitt: What was that you started to say? Let the witness finish.

A. I have had considerable experience in the organization and construction of other projects of similar magnitude or greater.

Q. But not on natural gas properties?

A. No.

Q. Is it based on any analysis of undistributed construction costs actually incurred in connection with the construction of natural gas properties?

A. No. I might say that it is based upon my judgment as an engineer as to what these costs would be in similar cases.

Q. Now, the transmission line equipment constitutes ninety per cent or better of the entire transmission system properties, does it not—that is, the pipe lines and the fittings?

A. I have not arrived at that percentage. If that is true, then it is.

Q. Can you look at Plaintiff's Exhibit 9, and state whether that is true or not—that is, of the direct costs.

Mr. Bobbitt: Do you want him to figure that percentage?

Q. No, I want him to satisfy himself that it is ninety per cent or better. I don't want him to get down to four decimal places.

A. I might say that it is that, practically; that is, the direct structural costs, including land, leases and rights of way, materials and supplies.

Q. If you will figure it within five percent, that will be satisfactory.

[fol. 1239] It is around ninety percent.

Q. Now, in the same way in connection with the distribution system properties, as reflected by the distribution system section of Plaintiff's Exhibit 9, the direct costs new less depreciation are $490,488.00, are they not?

A. Yes.

Q. And of that amount, the costs of distribution line equipment and services and meters constitute some $480,000.00 or approximately ninety percent of that item, do they not?

A. Yes.

Q. What over-all weighted percent condition do you give in your appraisal to the transmission system property? Is it 73 percent, Mr. Elrod?

A. I do not believe I have reduced that to an average over-all percent.

Q. Well, you can do so, can't you, Mr. Elrod?

A. Yes.

Q. And have you gotten an average figure on the percent condition given by you to the distribution system property?

A. No, I have not.

Q. Mr. Elrod, you made an appraisal of these same properties a year or more ago, did you not?

A. I did.

Q. And have you made an inspection of the distribution system properties since that time?

A. Visible properties, yes.

Q. Of the distribution system?

[fol. 1240] A. Yes.

Q. Have you made an inspection of the mains and services?

A. No.

Q. And do you show in Plaintiff's Exhibit 9 the distribution system properties to be in the same percent condition as you showed them a year ago?

A. No.

Q. What, with respect to the mains and services, is the difference between what you found a year ago and what you find now?

A. As a whole, I do not believe I have reduced that to percentages.

Q. I am referring now to the mains and services and not the remaining ten percent of the property. As a matter of fact,

Mr. Elrod, haven't you simply reduced the percent condition of the mains under paving three percent, and the percent condition of the mains not under paving by five percent?

A. I have not reduced those to percentages, but I will do so.

Q. Are you unable to state whether or not that is a fact—that you simply reduced the mains under paving three percent and the mains not under paving five percent?

A. I do not know that that is absolutely correct.

Q. And what percentage reduction, to show the percent condition as at the present date, have you made in regard to the transmission lines?

A. I have not reduced that to over-all percentages.

Q. I am not asking you for the entire property but I am asking you simply for the transmission lines themselves.

[fol. 1241] A. I beg your pardon for taking so long, but this book was taken to pieces and put back, and I do not seem to find it by the index. That is correct.

Q. That is correct. Now, Mr. Elrod, in the process of making a determination of percent condition of these properties, isn't one thing that you have done is to attempt to ascertain the date at which a particular line—whether transmission or distribution—was installed.

A. Yes.

Q. Haven't you then computed the time from the date the line was installed at that particular location, down to the present time?

A. Yes.

Q. And then what has been your next process in that computation?

A. To inspect the pipe.

Q. I am talking about the computation you made in the use of the date installed and the time expired since the pipe was installed at that location.

A. I do not quite understand your question. My process in arriving at the percent condition of the pipe involved both the age and life of the pipe and the actual inspection.

Q. Now, I am talking about how you actually made your age-life computation, after ascertaining or attempting to ascertain the time the pipe was installed, and by simple mathematical calculation figured the time from the time it was installed until the present. And what did you do then?

[fol. 1242] A. If the pipe had been in ten years, and the condition of the pipe would indicate that it had a life of 33⅓

years, we would give it three percent deduction for the ten years.

Q. You would then deduct 33⅓ percent?

A. We would deduct 30 percent for ten years.

Q. 30 percent, yes.

A. But in some instances, we did not know the age of the property and had to assume the age from its condition.

Q. Now, Mr. Elrod, turn to page 40 of your transmission system section and refer there to the eight inch pipe weighing 28 pounds per foot, and leaving off the fractions, in the Pescadito Junction to the Aguilares line. Under that item, you state installed 1923, do you not?

A. Yes.

Q. And then after that you state ten years, at three percent depreciation, do you not?

A. Yes. I corrected that yesterday to eleven years.

Q. Where did that ten years at three percent come from. I mean, how did that happen to get into this appraisal?

A. You mean the word, three years?

Q. At three percent.

A. At three percent. Well, it was in our last appraisal.

Q. Which was about a year ago?

A. Yes.

Q. And your correction is now to make that eleven years, at three percent?

[fol. 1243] A. Yes.

Q. And so in 1932, you simply took ten years at three percent and got a 70 percent condition, did you?

A. Yes.

Q. And now, a year later, you have taken eleven years at three percent, and gotten 67 percent condition?

A. Yes.

The Court: Gentlemen, we will take a few minutes recess.

(Whereupon the court was recessed at 10:55 A. M. until 11:05 A. M.)

[fol. 1244] (After Recess)

The Court: If you are ready, gentlemen, let's go. Mr. Elrod, come back, please.

Q. In other words, as appears from page 40 of the Transmission Section of Plaintiff's Exhibit 9, you computed this per cent condition at three per cent a year from the date

you say the line—a line was installed, down to the present date?

A. Yes, sir.

Q. At how many points on that particular line did you make inspections?

A. I made a number of inspections, and I have no record of how many I made. I made perhaps——

Q. I am talking about this particular line we are now referring to, the eight-inch Pescadito Junction to Aguilares, which is a dresser coupled line, asphalt and felt.

A. Yes. I say I don't know how many inspections I made; I have no record of them. I made those inspections once with Mr. Neff and once with Mr. Heins, and again——

Q. Did you inspect that line at all?

A. Yes, sir.

Q. And do you know at how many points?

A. No, I said I didn't know at how many points.

[fol. 1245] Q. Can you approximate it?

A. We made all-told——

Q. I am asking you about this line now, Mr. Elrod.

A. Well, as I say, I can't tell you. My assistants made inspections that I have no record of with me.

Q. Well, now, what did you make?

A. I made, as I recall, about fifty inspections on the line between Carolina-Tex Field and Laredo.

Q. Now, how many of those fifty inspections between Carolina-Tex Field and Laredo were made at test holes which were specially dug by you or under your supervision?

A. Well, I can't tell you—about fifty, I think, were made by me.

Q. But my question is, Mr. Elrod,—you understand what I mean by test holes specially dug?

A. Yes sir; yes, sir.

Q. My question is, how many were made at test holes which were specially dug?

A. I can't testify on that.

Q. You can't testify?

A. I don't recall just how many test holes were made.

Q. Do you recall whether there were any test holes dug on the section of line from Pescadito Junction to Aguilares?

A. Yes, there were.

Q. But you can't say how many?

[fol. 1246] A. No.

Q. Can you approximate it?

A. No, I don't believe I can.

Q. Did you make inspections at those points where test holes were specially dug?

A. Yes, sir.

Q. What, in your judgment, is the best way of getting the fair over-all average condition of a transmission system line that is buried—that is, what is the best way of getting an average condition by inspection?

A. Solely by inspection, there is no best way according to my judgment.

Q. Isn't the better way to first ascertain points equally spaced at intervals along the line and then dig a test hole and make inspections at those particular points.

A. I think not. I think the better way is to go over the terrain and find, if possible, the hot spots, and test the lines particularly in those hot spots, where they are expected to be in worse condition than they would be in other places.

Q. In other words, go over the line and look for the places where you can expect the greater amount of corrosion?

A. Yes, sir.

Q. And do you likewise think that another good way of getting a fair over-all average per cent condition of the property is to inspect the pipe at those points where it [fol. 1247] has been opened for repair?

A. Yes, I think that is a good way of finding out the condition. Any place that you can inspect a pipe where it is, either good or bad, is a desirable place to find out. The more inspections you make the more nearly you come to an accurate determination, if such a thing is possible by inspection.

Q. Then, do you think that inspecting the line at hot spots where a greater corrosion is to be anticipated, and inspecting it at points where it has been opened for repair is a better method of getting a fair over-all average per cent condition of the property than digging test holes at evenly spaced points along the line?

A. I certainly do.

Q. And that was the method that you have outlined—that is, inspecting the pipe where it has been repaired and where the hot spots were—that was the method, generally speaking, followed in inspecting this Carolina-Tex-Laredo line?

A. No, we dug special test holes——

Q. How many?

A. —from point to point.

Q. How many?

A. I testified that I didn't know. I presume there were fifty dug at my direction along the line between the Carolina-Tex Field and Laredo City Gate.

[fol. 1248] Q. And were those dug at regular intervals?

A. No, they were dug at random.

Q. And in hot spots, principally?

A. No, just at random, without any reference to the hot spots.

Q. And did you inspect those fifty test holes?

A. Pardon me.

Q. I say did you inspect the pipe at each of those fifty test holes.

A. Yes, sir, I inspected the pipe at every test hole that was dug, whether I had it dug or not.

Q. And when were those test holes dug?

A. Well——

Q. I mean, what year?

A. They were dug in 1932.

Q. All of them prior to the Commission hearing?

A. Yes, sir.

Q. Have any special test holes been dug along that line and inspected by you since the Commission hearing?

A. No, sir.

Q. Now, in what instances in this Pescadito Junction Aguilares line did the result of your inspection cause you to change from your straight line age life method of three per cent a year?

The Witness: Will you read the question, please, Mr. Reporter?

[fol. 1249] (Thereupon the Reporter read the last preceding question, as follows: "Q. Now, in what instances in this Pescadito Junction-Aguilares line did the result of your inspection cause you to change from your straight line age life method of three per cent a year?")

A. I didn't know that I did change.

Q. Did you change in any respect from the three per cent a year, as the result of inspection?

A. I don't quite get the drift of your question.

Mr. Coates: Read it, Mr. Reporter.

(Thereupon the Reporter read the last preceding question, as follows: "Q. Did you change in any respect from the three per cent a year, as the result of inspection?")

Mr. Fitzhugh: May I ask a question, please sir?

The Court: Yes, sir.

Mr. Fitzhugh: Mr. Elrod, is that the correct designation for the method that you used for determining depreciation, straight line age life method?

A. I have used a combination of age and life and inspection.

Mr. Fitzhugh: I object to the question, then, because it doesn't use the same method that the witness has used.

Mr. Coates: He says that is one method that he has used, and he has combined it with inspection, and I am [fol. 1250] trying to find out how much inspection has changed his age life figure.

The Court: Pardon me, Mr. Fitzhugh, really and honestly, I don't understand your objection. I don't know how to pass on it.

Mr. Fitzhugh: The question states, in substance, that the witness is using a straight line age life method, and——

The Court: Well, read the question.

(Thereupon the Reporter read the testimony under discussion, as follows: "Q. Now, in what instances in this Pescadito Junction-Aguilares line did the result of your inspection cause you to change from your straight line age life method of three per cent a year? A. I didn't know that I did change. Q. Did you change in any respect from the three per cent a year, as the result of inspection? A. I don't quite get the drift of your question.")

Mr. Fitzhugh: The witness says he doesn't use a straight line age life method, but a combination of that and——

The Court: The objection is overruled. I think the question is answered.

Q. Mr. Elrod, I will ask you if at the time you testified before the Commission you were not asked the following question, and did not give the following answer:

[fol. 1251] "Question: Wouldn't you get the most representative inspection if you took a pipe line map before you went out to make your inspection, or to dig your holes for making inspections, and spaced that off at equidistant distances and then dug the holes in those places?"

To which you answered:

"Yes, that would be a very good way to do it."

Mr. Lange: What page is that on?

Mr. Coates: Page 369.

Mr. Bobbitt: Are you reading from the transcript of the testimony before the Commission?

Mr. Coates: And his testimony under oath, Mr. Bobbitt.

Mr. Bobbitt: I understand that. He was under oath, just like he is here; but I just asked you if you were reading from the transcript of the testimony before the Commission.

The Court: He answered yes.

Q. (Reading:) "Question. And wouldn't that give you the most representative observation of the pipe on that line? Answer. I would not say it would be most representative, but it would give an equally representative idea; I [fol. 1252] should say." Were you asked those questions and did you give those answers, under oath?

A. I did.

Q. What has caused you to change your opinion since the date you testified under oath before the Commission, Mr. Elrod?

A. The inspection of the Pescadito-Jennings line, which was inspected by Mr. McGary in that manner—that is, he laid it off for inspection at mile-posts, and his inspection has indicated to my mind that that is a very poor way of arriving at the actual condition of a pipe line.

Q. And you now think that the best way is to find the spots where the pipe corrodes the most, and likewise the places where the pipe is being repaired?

A. I think the best way is to inspect it at every point that is suspicioned of being depreciated, and at every other point that it is possible to inspect it, each inspection adding to the percentage of correctness of the inspections.

Q. Now, having ascertained——

Mr. Bobbitt: Pardon me, Mr. Coates. May I ask this question: Mr. McGary, whom you testified about there, is an engineer for the Gas Company, is he not?

[fol. 1253] A. Yes, sir.

Q. On your inspections at hot spots, you note the condition of the line at that point, do you not—at each hot spot?

A. Yes, sir.

Q. And you note the condition of the line at each point where it is being repaired, do you not?

A. Yes, sir.

Q. And then you take the condition noted at those points and apply that information in determining the condition of the line, do you not?

A. After making the inspections at points where the pipe is perhaps in better condition; in other words, an honest attempt is made to arrive at what the exact condition of the pipe is.

Q. Well, now, how do you find those places where the pipe is in better condition?

A. Well, there are a number of indications of the condition of the pipe,—from the character of soil, where soil is drained well the pipe is likely to be better than where the soil isn't drained so well.

Q. Now, do you give an inspection made at all hot spots and all repair points equal weight with the inspections made in the high points?

[fol. 1254] A. I don't believe that we have an understanding of each other in this matter of inspection. The inspections that I have made have been made at random and with the idea of tying into or with the age and life method of arriving at depreciation in trying to form a judgment as to the condition of the pipe.

[fol. 1255] Q. And can you point to any particular instance in Plaintiffs' Exhibit 9 where the result of your inspection has caused you to change from your application of your age life computation?

A. I don't know that I can, offhand.

Q. You are thoroughly familiar with this exhibit, having made it, are you not?

A. Yes, sir.

Q. But at this time you are unable to point to any place relating to transmission lines where your inspection has changed the age life computation?

A. No.

Q. I say you are unable to do it.

A. I am unable to do that at this time.

Q. Now, from what source did you ascertain this estimated age life of thirty-three years which you apply here?

A. The determinations were made in conference with Mr. Neff, the engineer with whom I was engaged by the City, prior to the Commission hearing in October, 1932, and the City Engineer, Mr. Heins, I think, on the inspections and data covering the time the pipe was laid.

Q. Well, now, is that figure—did you derive it or did Mr. Neff and Mr. Heins derive it?

A. Well, it was derived jointly, I think—that is, it represented our judgment.

Q. It represents your judgment as well as the judgment [fols. 1256-1258] of those two men?

A. I relied upon their judgment, to mould my judgment.

Q. Then, it represents your judgment as moulded by their judgment, does it?

A. Aided by my inspection and examination of the pipe and the conditions that surrounded it, with a number of soil tests.

Q. Then you didn't refer to any handbook or anything of that sort—didn't take this age life table from any handbook?

A. No.

Q. But developed it yourself? Now, does that thirty-three years represent your judgment as to the average span of years from the time a joint of transmission line is installed until the time it is retired from service?

A. I think so, with that particular type of protection and soil.

* * * * * * *

[fol. 1259] ALBERT MARTIN, a witness for plaintiffs, having been duly sworn, testified as follows:

Direct examination.

Questions by Mr. Bobbitt:

Q. What is your name?

A. Albert Martin.

Q. Where do you live, Mr. Martin?

A. In Laredo.

Q. How long haye you lived in Laredo?

A. I have lived in Laredo all my life—forty-four years, except two years spent in the United States Army, one of which I spent in France.

Q. Have you lived continuously in Laredo, with that exception?

A. With that exception, yes, sir.

Q. All your life. What position do you hold—what official position in the City of Laredo?

A. Mayor.

Q. You are mayor of the town?

A. Mayor of the city, yes, sir.

Q. How long have you been mayor of the City of Laredo?

A. Eight years.

Q. Eight years. Did you serve in any other official capacity with the city prior to the time you became mayor?

A. Yes, sir.

Q. What was it?

[fol. 1260] A. Alderman.

Q. How long did you serve as alderman?

A. Six years.

Q. Six years. That runs back to about 1920?

A. 1920, yes, sir.

Q. Mayor Martin, are you familiar with the industries in and adjoining the City of Laredo which use gas for fuel or industrial purposes?

A. Yes, sir.

Q. Are you familiar with the price charged for gas for industrial purposes to such industries?

A. Yes, sir.

Q. What is that price?

A. Rwenty and twenty-five cents.

Q. Are you familiar, Mayor Martin, with the price of gas transported by United Gas Public Service Company for industrial purposes through the City of Laredo and delivered across the river to the City of Nuevo Laredo?

A. Yes, sir.

Q. Are you familiar with the industries in Nuevo Laredo burning gas for industrial purposes?

A. Yes, sir.

Q. What are some of them?

A. Two ice plants and a soap factory.

[fol. 1261] Q. Do you know the price charged by the United Gas Public Service Company for that gas so delivered to Nuevo Laredo?

A. Yes.

Mr. Coates: Now, just a minute. Mayor Martin, do you know whether United Gas Public Service Company owns—or owns and operates the gas company which serves gas in the city of Nuevo Laredo?

A. I don't know whether they own it or not.

Q. Do you know the name of that company?

A. It's the Compania De Gas, S. A. I believe.

Q. What does that mean in the United States?

A. Gas Company, Secret Society.

Q. That is a corporation, is it not?

A. Yes.

Mr. Bobbitt: Are you through with your objection, Mr. Coates?

Mr. Coates: I have not made an objection yet, but we now object on the ground that no proper predicate has been laid for this question to make it material upon any issue in this case by showing like and comparable conditions with respect to the volumes of gas delivered and the volumes of gas taken, the minimum amounts agreed to be taken, the load factor requirements and may other matters. And we object further to any testimony with respect to the price at which the company distributing gas in New Laredo sells gas.

The Court: I will sustain that objection.

[fol. 1262] Q. Do you know, Mayor Martin, where the United Gas Company meters the gas that is delivered by it out of the city of Laredo to the City of Nuevo Laredo, Mexico?

A. Right on the bridge—the international bridge on Convent Avenue, in the city of Laredo.

Q. Do you know the price the United Gas Company sells gas thru that mater to the distributing company in Nuevo Laredo?

A. For domestic purposes, I do not. I do know, for industrial purposes.

Q. What is it for industrial purposes.

A. 14½ cents, and that includes a small amount of duty paid for that gas to the Mexican government.

Q. If I understand you, there is a duty on gas which is imported into Mexico?

A. There has been for the past three years, but prior to that there was no duty.

Q. Is that the prices the industries pay in the city of Nuevo Laredo, or is that the price at the city gate that the——

Mr. Coates: Now we renew our objection to that question.

The Court: What was the question. (Question is read.)

Q. What I am getting at is this: I understood you to say that the price was 14½ cents——

The Court: That is paid by the distributing company.

Mr. Coates: Yes, I was confused about that. We have no objection whatever to the price at which the United Gas sells gas to the New Laredo Gas Company at the bridge, but [fol. 1263] I understood your question goes further, and was going into the price at which the Nuevo Laredo company sells to industries.

Mr. Bobbitt: We can clear that up by stipulating that is the price they sell gas in the city of Laredo for delivery to Nuevo Laredo, at 12¼ cents. I believe that is the testimony Mr. Stein gave.

Mr. Coates: I don't know whether it is or not. The contract will show the price at which gas is sold by the United to Nuevo Laredo Gas Company, and I will be glad to stipulate it as soon as I can look at the contract.

A. To my knowledge, the price that they pay is 14 cents less 15 per cent.

Q. That is the industries?

A. No, that is the Nuevo Laredo Gas Company pays the United 14 cents, less 15 per cent.

The Court: I understood you tc say a minute ago, 14½?

A. That is what the industries pay in Nuevo Laredo.

The Court: Then that is stricken. Fourteen cents now is the price that the gas company pays to the United at your city gate as it goes into Nuevo Laredo, less 15 per cent?

A. That is correct.

Q. Now Mayor Martin, are you familiar with the Haussman Pac-ing Company plant in the City of Laredo?

A. Yes.

Q. How long has that concern been existing there, if you know?

A. Approximately ten or twelve years.

[fol. 1264] Q. And that is a packing company?

A. Yes.

Q. Are they in continuous operation at this time?

A. Yes.

Q. And carrying on their business?

A. Yes.

Q. Do you know of your own knowledge their situation in respect to the use of natural gas for fuel purposes as compared or as in connection with other fuels?

A. Yes.

Q. State what that is.

A. Their president, Mr. Louis Haussman repeatedly complained to me that the price of gas was exhorbitant——

Mr. Coates: We are sorry, Mr. Mayor, but we are going to be compelled to object to this, as hearsay.

The Court: There is no question of it; it is hearsay.

Mr. Coates: We don't mean, Mayor, that Mr. Haussman——

The Court: I don't believe Mr. Martin understood that question, anyway. Will you read the question? (The question is repeated to the witness.)

A. They changed from natural gas to fuel oil.

Q. Why?

A. Because natural gas was found to be high and exhorbitant in comparison to fuel oil. It was more economical to burn fuel oil than natural gas, at the price they were paying for natural gas.

[fols. 1265-1271] Q. Do you know of your own knowledge whether or not they are now burning fuel oil?

A. Yes, they are.

Q. Do you know of your own knowledge whether they desire natural gas as a fuel?

A. They do.

* * * * * * *

[fol. 1272] By Mr. Bobbitt:

Q. Mayor Martin, do you know whether or not on what has been designated the North Laredo Line and the South Laredo Line of the United Gas Public Service Company

there are irrigation and pumping plants used by farmers in the irrigation of their farms there?

A. Yes, sir.

Q. Do you know what fuel they use for the running of those irrigation pumps and plants?

A. Natural gas and electric power.

Q. Do you know whether or not there has been a reduced use of natural gas in the last two or three years by those concerns?

A. Yes, sir.

Q. Why have they reduced or ceased to use natural gas?

Mr. Coates: We are compelled to object to that, because it naturally calls for a conclusion, and it would be hearsay.

The Court: Of course, if it calls for hearsay or a conclusion of the witness, it would—inadmissible and the objection would be sustained; but Mayor Martin may have some of those plants himself, and then——

A. Yes, sir; I operated an irrigation farm in North Laredo in 1923, 1924, 1925, and 1926, and we put in an electric motor because we found it more economical than a Bessemer gas engine.

Q. Have you operated a farm there in the last two or three years?

[fol. 1273] A. No, sir.

Q. Do you know, of your own knowledge, men who are operating and have been operating those pumping plants on those farms during the last two or three years?

A. Yes, sir.

Q. Do you know of your own knowledge—I believe you testified they had ceased or reduced the use of gas; do you know of your own knowledge whey they reduced their consumption of gas for industrial purposes?

Mr. Coates: We renew our objection.

The Court: Yes, sir; the objection is sustained, except where he knows. I want no answer to a question that would call for a conclusion or one based on hearsay. I will allow Mr. Martin to answer as to what he did himself out there.

Q. How many, in number approximately, of farmers are now using natural gas in those two areas?

A. Approximately thirty.

Q. Do you know Mr. J. O. Walker?

A. Yes, sir.

Q. Do you know Mr. Willie McKendrick?

A. Yes, sir.

Q. On another matter it has been testified in this case by Mr. Stein, the District Manager of the United Gas Public Service Company at Laredo, that reducing the price of gas from 75 cents per thousand cubic feet to 55 cents per thou- [fol. 1274] sand cubic feet, as provided in the Commission's order, would not bring to the Company any increased number of customers, or any increased volume of gas sales to existing customers in the City of Laredo. You live in the City of Laredo, and are a consumer of gas, are you not?

A. Yes, sir.

Q. Would the reduction of the price cause you to use any more gas than you use at the 75-cent rate?

A. Certainly it would.

Q. Are you acqainted generally with the users of gas for residential purposes in your city?

A. I am.

Q. I believe the population of the city according to the last census is approximately 35,000; is that correct?

A. Yes, sir.

Q. That is about right?

A. Yes, sir.

Q. The testimony in this record shows that there are approximately five thousand gas users in the City of Laredo. Being acquainted with the situation in the City, as you are acquainted with it, would there, in your opinion, be an increased number of gas consumers—I mean, residential consumers in number, and an increased amount of gas used by existing customers, if the price is 55 cents, instead of 75 cents?

Mr. Coates: Just a minute. We object to that because [fol. 1275] it calls for a conclusion of the witness, and no proper predicate has been laid for the giving of a conclusion such as this by this witness.

The Court: The objection is overruled. This witness I think is qualified and acquainted with the situation.

A. Yes.

Mr. Coates: We except.

Q. What is your answer?

A. They would gain more customers, and the present customers would burn more gas.

Mr. Coates: Our objection goes to all of this.

Q. In your opinion there would be a substantial increase in the number of users, and a substantial increase in the volume used by existing customers.

Mr. Coates: We object to that for all of the reasons previously given, and for the further reason that the question is too indefinite.

The Court: I suspect that it is too indefinite.

Q. How much increase do you think there would be?

A. There would be an increase of approximately fifteen hundred meters.

Q. In your opinion there would be an increase of approximately fifteen hundred meters?

A. Yes, sir.

Q. What do you base that opinion on?

[fol. 1276] A. I think I am pretty familiar with the conditions existing in Laredo. I further know that there is a fleet of approximately one hundred trucks operating out of Laredo, going as far north as my ranch. I own a ranch fifty-five miles north of Laredo on the paved highway, and ten miles east of a dirt road, and there is approximately fifteen trucks going out there—have been going out there for the last six months, two men to the truck, to haul wood, for which they pay me seventy-five cents a load; they go out 66 miles and return 66 miles, cut that wood, and put it on the truck and bring it back to town, and they have all told me that they make a nice profit on that load of wood.

Mr. Coates: We move to strike the answer for all the reasons previously given in our objections; and further, because the cost of competitive fuels is immaterial and has no bearing on any issue in this case.

The Court: Except for the basis of his opinion, there would be an increased use of gas if the price was less.

Mr. Coates: And is not a proper matter for testimony as to the reasonableness of the order prescribed by the Railroad Commission.

The Court: I am admitting it only as a basis for his opinion. The objection is overruled.

Mr. Coates: Note our exception.

[fol. 1277] Q. What did you state they had told you?

A. That they had made a profit.

Q. Those hundred trucks that haul wood in there, they distribute that wood to people desiring to have fuel in their homes in Laredo, don't they?

A. Yes, sir.

Q. Would these users of wood, in your opinion, use natural gas if they could get it at the 55-cent rate, rather than the 75-cent rate?

A. In my opinion, they would.

Q. What is your opinion based on?

Mr. Coates: We object to all this line of testimony.

The Court: He has stated what it is based on, I think.

Q. Do you have under your direction or jurisdiction as trustee lands and properties situated in the Carolina-Texas section of Webb County that are leased for oil and gas development purposes?

A. Yes, sir.

Q. How much land is under your jurisdiction?

A. Forty-one thousand acres of land.

Q. Is that the Servando-Benavides Estate properties?

A. Yes, sir.

Q. Approximately how many gas wells on that property are producing gas at this time?

[fol. 1278] A. Nineteen.

Q. How long have you been trustee of that estate and in charge of its operations?

A. Since 1928, in March.

Q. Since March, 1928?

A. Yes, sir.

Q. Do you sell gas to the United Gas Public Service Company?

A. Yes, sir.

Q. What price do you get for it?

A. Four cents.

Q. Do you have gas wells there from which no gas is being taken, there being no market for it?

A. We have two.

Q. You have two?

A. There is no pipe line extended to those two wells.

Q. Are you familiar with the other gas producers in that area in a general way?

A. Yes, sir.

Q. Do you know approximately how many gas wells are producing and delivering gas in that Carolina-Tex. area at this time?

A. I couldn't answer that question; I don't know.

Q. Now, Mayor Martin, testimony in this record by the witnesses for the Gas Company shows that the primary reason, as I gathered it from that testimony, for the non-use of gas by a great many people in the City of Laredo was the fact [fols. 1279-1281] that the installation for the use of gas was the trouble, and not the price of gas. Are you familiar with the character of installation that many of the gas users, or would-be users of gas, install for the use of gas in their homes?

A. I think I am.

Q. Approximately what would be the expense?

A. Six to eight dollars.

Q. And what would that include?

A. That would include most of the area—a large uneven area there.

Q. I mean what material would that include?

A. It would include an extension from the curb to the property line and a connection for stove and light.

Q. Do you know whether, of your own knowledge, there are a large number of users of gas there with just such an installation as you testify to—a very simple and inexpensive installation?

A. Yes, sir.

Q. There are a great many laboring people living in the City of Laredo?

A. Yes, sir.

Q. People of small means?

A. Yes, sir. We have three thousand registered with the Relief Board.

Q. People that rent their homes?

A. Yes, sir.

* * * * * * * *

[fol. 1282] J. O. WALKER, a witness for Plaintiffs, having been duly sworn, testified as follows:

Direct examination.

Questions by Mr. Bobbitt:

Q. What is your name?
A. J. O. Walker.
Q. Speak a little louder, Mr. Walker, so they all can hear you.
A. J. O. Walker.
Q. Where do you live, Mr. Walker?
A. Laredo, Texas.
Q. How long have you lived there?
A. Since 1910.
Q. Since 1910?
A. Yes, sir.
Q. What business are you engaged in, Mr. Walker?
A. In the farming and creamery business.
Q. How many farms do you operate there?
A. I am operating seven—seven farms.
Q. Do you own those farms?
A. No, sir, not all of them.
Q. Do you live in the City of Laredo?
A. No, sir, I live just outside of the City, in the County.
Q. And the creamery you state you operate is located in the city?
[fol. 1283] A. Within the city, yes.
The Court: Did you say in the city, or adjacent to the city?
A. I live adjacent to the city, but the creamery is in the city.
Q. Are some of the farms in the city limits?
A. No—Yes, there is—there is part of the land inside the city.
Q. Mr. Walker, do you have irrigation pumping plants with which you irrigate your farming properties?
A. Yes, sir.
Q. What fuel do you use for—do you use gas for fuel in operating those pumping plants?
A. Yes, sir.
Q. How long have you been using gas for that purpose?
A. Since 1913.
Q. Since 1913?
A. Yes, sir.

Q. What price do you pay, Mr. Walker, for the use of gas for fuel purposes at your pumping plants?

A. Under the boilers, I am paying twenty-five cents a thousand cubic feet, less five cents if it be paid by a certain date, leaving it twenty cents.

Q. What do you pay for gas used for other purposes—you say boiler purposes?

[fol. 1284] A. Yes, sir.

Q. Do you use gas for any other purpose?

A. That is the only purpose I use gas for now, except for the residence.

Q. What price do you pay at the residence?

A. I believe we have a dollar and a half minimum. The rate has been raised on the consumers outside of the city limits in the last year or two. I think we have a dollar and a half minimum with a seventy-five cent rate.

Q. What do you pay at the creamery?

A. We are paying the same there, under the boilers—twenty-five cents less five, at the creamery.

Q. Are you pretty well acquainted with the people living in the City of Laredo who use gas for residential purposes and for industrial purposes?

A. Yes, sir.

Q. Are you acquainted with the different farmers and industries along the river there that use gas for industrial purposes?

A. Yes, sir.

Q. Mr. Walker, I will ask you if for residential purposes, for instance, the price of gas was fifty-five cents, as fixed by the Railroad Commission's order, as against seventy-five cents, the old rate, would there be any increase in the City of Laredo?

Mr. Coates: Don't answer until I have had a chance to [fols. 1285-1290] make an objection, Mr. Walker.

The Witness: Yes, sir.

* * * * * * *

[fol. 1291] Q. Mr. Walker, I believe you testified you had been using gas since 1910?

[fol. 1292] A. 1913.

Q. 1913?

A. Yes, sir.

Q. Both for industrial and residential purposes?

A. I don't remember just when the residential gas began, but I do remember distinctly the year I began using it for industrial purposes.

Q. In the City of Laredo?

A. Yes, sir.

Q. And you have had an experience over that period of years, from 1913 down to the present time?

A. Yes, sir.

Q. In the use of gas?

A. Yes, sir.

Q. In the City of Laredo?

A. Well, the first gas that I used for industrial purposes was in the City of Laredo.

Q. You have had an experience with the raising of the price in other years, and the lowering of the price in other years, have you not?

A. Yes, sir.

Q. And you are familiar with the use and consumption of gas at a lower and a higher price?

A. Yes, sir.

Q. You have had that personal experience, and you have [fol. 1293] observed it in the community?

A. That is so, yes, sir.

Q. And the effect of the high price or the low price for gas——

A. Yes, sir.

Q. As to its use, is that correct?

A. Yes, sir, that is correct.

Mr. Bobbitt: We submit, Your Honor, that he has qualified.

The Court: Well, what is this man's acquaintance over the city? You have asked a general question about the whole City of Laredo. I don't know whether he know- whether he knows any one else.

Mr. Bobbitt: I asked him first about his experience.

The Court: You are not confining it to the question you asked him about his experience, but apply it to the whole City of Laredo. That is why I say I don't think he has qualified. You qualified him as to his own experience in the use of gas, but that question asked about the city in general.

Mr. Bobbitt: I think that runs us into hearsay, which was the question we got into the other day.

The Court: Expert testimony is nearly always based on hearsay.

Mr. Bobbitt: Yes, sir.

[fols. 1294-1295] Q. Are you acquainted with the use of gas by other people in the City of Laredo during that time?

A. Yes, sir.

Q. And the effect of the low price or the high price as to its general use by the people of the City of Laredo?

A. Yes, sir.

Q. And you know most of the people living there in the city, where you have lived for twenty-five years, don't you?

A. Yes, sir.

Q. And you have an opinion based on your knowledge of what the high and the low price of gas—the effect of it on its use in the City of Laredo?

A. Yes, sir.

Q. Generally in that community?

A. Yes, sir.

Q. From what you know and what you have observed and what you have experienced, is that correct?

A. Yes, sir.

* * * * * * *

[fol. 1296] Questions by Mr. Coates:

Q. Mr. Walker, you have never been engaged in the business of selling or distributing gas, have you sir?

A. No, sir.

Q. And what business have you been engaged in for the last fifteen or twenty years?

A. Mainly farming.

Q. And have you ever engaged in the business of seeking to solicit customers for any gas distribution system?

A. No, sir.

Q. And are you acquainted with the number of houses [fol. 1297] adjacent to—I mean on the same street with the company's lines, which are occupied at this time, but which are not using gas?

A. Will you ask that question again? I didn't follow you.

Q. I will get Mr. Beck to read it to you; will you read the question please? (Question is read.)

A. No, sir, I am not.

Q. And are you acquainted with the purposes for which residential consumers there in Laredo use gas?

A. What was that again—am I acquainted with what?

Q. With the purposes for which residential consumers there in Laredo use gas?

A. The purposes for which they use it?

Q. Yes.

A. Why, I think I am—it would be for heating purposes, cooking purposes and so on; general house use.

Q. And do you know whether or not practically all the houses within the city of Laredo, built within the last fifteen years, and containing four rooms or above, are equipped for use of nothing but gas?

A. No, sir; I am not acquainted with that.

Q. Do you know whether that is true or not, Mr. Walker?

A. Whether they are equipped to use gas?

Q. Yes, whether they have been built so as to use gas and, generally speaking, without flues for wood or coal use.

A. Well, I can only have an opinion in that; most of the houses there are equipped to use gas.

[fol. 1298] Q. And do practically all the houses there of say four rooms or better, use gas for cooking, water heating and space heating?

A. Well, I could not say practically, but the town generally uses gas.

Q. Do most of the people that use gas there for cooking—do they cook their meals all they want to?

A. Do they cook all they want to?

Q. Yes—that is, do they use as much gas as they need to cook their meals done enough to suit their taste?

A. I don't know. I could not answer questions like that.

Q. You don't know anybody there that goes without their meals being cooked because of the price of gas, do you, that have gas installed in their houses?

A. No.

Q. Do you know any specific people that do that?

A. No sir, I don't.

Q. And do you know anybody there that does without warm baths because of the 75 cent rate on gas? That is, who don't heat their water because of the 75 cent rate?

A. Well now, I have noticed this, now; that a great deal more wood comes into Laredo now than used to. It passes my farm and that wood is being taken in there for heating and cooking purposes, more than it used to be.

Q. And do you know to what class of population that wood is being sold?

A. I think I do.

[fol. 1299] Q. To what class?

A. I think it is to the Mexican extraction of population.

Q. A lage percent of the population inside of Laredo is of Mexican extraction, is it not, sir?

A. Yes, that is correct.

Q. Does that run to as much as 70 or 80 percent, in your judgment?

A. I wouldn't know just what per cent.

Q. And there is likewise a substantial poortion of the population which is of other foreign extraction, is there not, there in Laredo?

A. No, sir; not a substantial part.

Q. What per cent of the permanent population there in Laredo would you say is of Anglo-Saxon descent?

A. I would say about 30 per cent.

Q. And the standard of living and the mode of living and also the rate of pay of a pretty large per cent of this population of Mexican extraction is lower than that in the average Anglo-Saxon community, is it not—that is, in the interior of the state?

A. Yes, I think it is.

Q. And the purchasing power of those people as a whole is considerably lower, is it not?

A. Yes, I think so.

Q. Do you know—I know you can't state it definitely—but do you know the average size of family there, of Mexican extraction, there in Laredo?

[fol. 1300] A. No, sir; I could not tell you that.

Q. Would it be in excess, in your judgment, of the average size of the Anglo-Saxon family on the interior?

A. You mean the average size of the Mexican family would be in excess?

Q. Yes.

A. Yes, I think so. I think their families are larger.

Q. On the whole, they have more children and bigger families, do they not?

A. I would think so, yes.

Q. And it is quite common to see two families living under the same roof, is it not, among the laboring class of Mexican extraction?

A. Well, no sir, I wouldn't say it is common.

Q. Well, you do see it, don't you?

A. I see them living on the same lot, but not under the same roof.

. . . . . .

[fol. 1301] Questions by Mr. Bobbitt:

Q. Mr. Walker, I believe you stated you have been living in Laredo for twenty-five years, and have been using gas for residential purposes and for fuel or for industrial purposes since 1913?

A. Yes.

Q. And you are acquainted with the general use of gas in that community for residential and other purposes?

A. Yes.

Q. I will ask you this question, Mr. Walker: whether or not in your opinion there would be an increased use of gas as a result of the putting into effect of the 55 cent rate, as ordered by the Commission, as against the 75 cent rate—the old or the existing rate?

A. I think there would be an increase in consumption; I don't think there is any doubt about it.

Q. Do you think there would be an increase in use by existing customers?

A. Yes.

Q. What about the increased number of individual customers?

A. I believe they would increase too.

Q. They would also increase, in your judgment?

A. Yes.

[fol. 1302] Q. Do you know whether or not, Mr. Walker, there are a substantial number of houses or homes in the City of Laredo, say of four rooms or three rooms or above, not now equipped with facilities for using gas, or which are not using gas?

A. There are a great many of the small houses among the Mexican people that are not using gas, that I believe would use it if the rate was lowered to 55 cents.

Q. What fuel are they now using, generally—if you know?

A. I think they are using wood, and it is being brought for long distances.

Q. How far?

A. All the way from 20 to 50 miles.

Q. How is it brought into the city?

A. In trucks and wagons.

Q. Approximately, if you know, how many trucks are there engaged in bringing wood into the city for the purposes stated?

A. I could not say the number, yet I just noticed there is a good many more the last two or three years, been coming into town with wood on them.

Q. Mr. Walker, I believe you testified you are using gas in your pumping plants, and paying 20 cents a thousand for it?

A. Yes.

Q. The testimony here in this record shows that you are using gas and that you are satisfied with that price that you are paying for gas for fuel purposes.

Mr. Coates: I object to that, as——

[fol. 1303] The Court: I do not recall any such testimony as that.

Mr. Coates: And we object to the question, because it is based on——

Mr. Bobbitt: Well, I don't think there is any question about it—Mr. Stein, the district manager, said——

The Court: I am going to strike the statement made by the lawyer. You can ask your question now. But your statement that the record shows—gentlemen, you will not pay any attention to the statement of the lawyer, General Bobbitt, as to what the record shows. It may show exactly what he says and it may not, but I am eliminating his statement from the record, because Mr. Bobbitt is not under oath and cannot testify.

Mr. Bobbitt: I was just making a basis for my question from my memory of what happened a few days ago.

The Court: Well, I can't remember that, and I am just striking your statement.

Mr. Coates: We object because it is wholly immaterial and has no bearing on any issue in this case, and if an attempt to rebut testimony brought out, it is rebuttal testimony on collateral issues.

The Court: So far, everything is out of the record now.

Mr. Coates: And it is highly prejudicial to this defendant's rights.

Q. Are you satisfied with the price of 20 cents a thousand for gas for fuel purposes?

[fol. 1304] Mr. Coates: The same objection.

The Court: I sustain the objection.

A. No, sir; I am not satisfied.

The Court: Wait a minute; I sustained an objection to that question.

Mr. Coates: And will the court instruct the jury not to consider that answer?

The Court: Gentlemen, the answer just given by the witness, you will not consider because he answered it inadvertently after I sustained an objection.

Q. Have you discussed the price you are paying there for gas at the pumping stations there, with the managers of the United Gas Public Service Company at Laredo?

A. My discussion has been mainly with Mr. Slimpin, the field manager. I come in contact with him more than any of the other men, and my discussion of the cost and prices and so on, has been with him.

Q. You discussed it also with Mr. Stein, the district manager, have you not?

A. Yes, but not as much as Mr. Slimpin.

Q. Have you notified the officers or the managers of United Gas Public Service Company that you will have to cease the use of gas for industrial purposes, at that price?

Mr. Coates: Now, our same objection, that it is not material for any purposes in this case, and is the use of a self-serving declaration.

[fol. 1305] The Court: I can not see, gentlemen, what effect the notice would have, or what materiality it would have in this case. I sustain the objection.

Q. Do you plan to continue or discontinue the use of gas there at that price?

Mr. Coates: The same objection.

The Court: Well now, that question might be admissible with certain qualifications, but as it is, I will sustain the objection.

Q. Well, have you been negotiating with the officers of the United Gas Public Service Company and their representatives there, in respect to the continued use of gas for industrial purposes?

Mr. Coates: The same objection.
The Court: I overrule that objection.
Mr. Coates: Note our exception.

Q. Read the question, please, Mr. Reporter. (Question is read)
A. I have talked to Mr. Slimpin about it, and told him——

Mr. Coates: Object to that as not responsive——
The Court: Now wait a minute—you have answered the question.

Q. What is the result of your negotiation with those officers?

Mr. Coates: The same objection.
The Court: Do you mean has he continued to use it or quit?

Q. Yes.

Mr. Coates: The same objection, and because it is a hear-
[fol. 1306] say declaration and self-serving.
The Court: Overruled.
Mr. Coates: Note our exception.

A. I am yet using the gas.
Q. How long are you going to continue to use it?

Mr. Coates: Our objection goes to all this line of testimony, and it is too remote and speculative.
The Court: If he knows and can answer definitely as to some date, I will let him answer it.

Q. Read the question, please. (Question is read)
A. I do not know.
Q. Have you given them any advice in respect to your continued use of the gas?

Mr. Coates: The same objection.
The Court: I sustain the objection.

Q. Does the rate they are charging you for gas have anything to do with your use of it, and any bearing on whether or not you will continue to use it or stop using it?

Mr. Coates: We object to that for each and all the reasons for which we objected to this witness' testimony, that being the objection which we have denominated here in the record the objection to Mr. J. O. Walker's opinion testimony.

The Court: I will sustain the objection.
Mr. Bobbitt: Note our exception.

Q. Are you negotiating with other parties for the use of other fuel for the same purposes you are now using gas?

[fols. 1307-1308] Mr. Coates: The same objection.
The Court: Overruled.
Mr. Coates: Note our exception.

A. Yes.
Q. Who?
A. Other fuel, you mean?
Q. Yes, who is that?
A. With refineries located around Laredo.

* * * * * * *

[fol. 1309] Q. You are acquainted, Mr. Walker, with a number of industries located inside the city limits of the City of Laredo, using gas for industrial purposes?
A. Yes.
[fol. 1310] Q. The Haussman Packing Company, and others, I believe?
A. Yes.
Q. And I believe you operate a creamery within the City of Laredo and use gas at that creamery?
A. Yes.

* * * * * * *

[fol. 1311] Q. Now, Mr. Walker, it is a fact, is it not that seventy per cent or above of the population living inside the city limits of Laredo is of Mexican extraction?
A. Well, I would say about that.
Q. About that?
A. Yes, sir.
Q. And that those people, generally speaking, have a lower standard of living and a lower earning power than the average Anglo-Saxon; isn't that true?
A. Well, a part of them yes; I would not say that seventy per cent have.
Q. But a substantial part of them have, have they not?
A. Well, I could not tell just what part have. There is part of the people that have a lower standard of living than the other people.

Q. And they earn substantially less than the average Anglo-Saxon?

A. Yes, sir.

Mr. Bobbitt: Speak out, Mr. Walker, so the jury can hear you.

Q. And those people—that is, the lower laboring class of Mexicans—as a general rule have larger families than the average Anglo-Saxon, do they not?

A. I think they do, yes, sir.

Q. Do those people live in any particular part of town, or are they scattered pretty well all over town?

A. They live pretty well all over town.

[fol. 1312] Q. Pretty well all over town?

A. Yes, sir.

Q. And do you know whether those people are paid enough—I am referring to the lower Mexican class—to use a substantial amount of gas at any price?

A. At any price?

Q. Yes, sir.

A. Yes, sir; they would take it at any price.

Q. And use a substantial amount of gas at fifty-five cents a thousand?

A. Well, I think a great many more would use it at fifty-five cents a thousand than are using it now at seventy-five cents a thousand.

Q. Do you know about how much gas per month or per year those people would probably use?

A. No, I could not tell that.

Q. And do you know for what purpose they would use it—would they use it for cooking?

A. Use it for cooking and heating purposes.

Q. Would they put in hot water heaters?

A. Some would.

Q. Well, would any substantial part of them put in hot water heaters?

A. I don't think any large amount would.

Q. The present rate for residential consumers has been in effect in Laredo since 1921, has it not?

A. I don't remember the exact year, but I think it was about that time.

[fol. 1313] Q. For ten years or more. Now, in your judgment isn't that increased use of wood brought about in large part by the economic conditions?

A. Well, some of it no doubt has—not all of it.

Q. Have you anything to do with the Relief Work there in Laredo?

A. No, sir.

Q. Do you know how many families are listed as being wholly or partly public dependents?

A. No, sir.

Q. Do you know whether there are a substantial number of people who are?

A. Well, not a substantial number. I know that there are quite a few men that have been used on the C. W. A. work and some on the Direct Relief, as they call it.

Q. And do not those people come very largely from the Mexican class to which you have referred?

A. Well, they would be, because there is more population in that class, but there are some American families in that work also.

Q. Mr. Walker, have your sales of products of the creamery company fallen off in the last few years?

A. They fell off in 1931, 1932 and 1933; they are up again some now.

Q. Up some now?

A. Yes, sir.

Q. You regard that as the result of economic conditions, do you not?

[fol. 1314] A. Yes, sir.

Q. And volume sales of all businesses during the period of what we know as the depression have largely fallen off, have they not?

A. Well, I would think that most businesses have.

Q. And because of the depression?

A. Well, that would be my opinion, yes, sir.

Q. Now, I believe the record reflects here that the existing rate is a rate of seventy-five cents, less ten per cent discount for prompt payment of bills, which would be sixty-seven and a half cents, and what has been referred to as the fifty-five cent rate is a rate of fifty-five cents plus ten per cent penalty for non-payment of bills within ten days; you understand that, do you not?

A. Well, I don't know how the rate is, but then I understand just what you are saying.

Q. Yes. In your judgment would the margin of difference —that is, between sixty-seven and a half cents net and

fifty-five cents net—create a substantial increase of use?

A. Well, with the rate of fifty-five cents, don't they get the ten per cent discount there also?

Q. No, there is a ten per cent penalty on that.

A. Well, I believe the lowering of the rates within reason no doubt would increase the consumption; there is no question in my mind about that.

Q. There is no question about it?

A. Yes, sir.

[fol. 1315] Q. Now, Mr. Walker, you said "the lowering of the rates within reason". In your judgment would the lowering of the rates from sixty-seven and a half cents net to fifty-five cents plus ten per cent penalty result in a substantial increase in the consumption by existing gas consumers?

A. I believe it would.

Q. You think that ten cents or twelve and a half cents per thousand cubic feet would increase such consumption?

A. I believe it would, for this reason: Most of the people think of seventy-five cents and fifty-five; that is the way the people are thinking about it, and the families naturally—a great many families I know are cutting down on the use of gas, cutting it off, on account of the price. If it got down lower they would naturally use more.

Q. You can cut the price of gas down to where they will think gas is practically cheaper than matches and leave the windows open?

A. Well, I guess that might be true.

Q. That is a condition you find in gas fields?

A. Well, I don't know about gas fields.

Q. Well, the people there know that they get a ten per cent discount on the seventy-five cent rate, those who have been using gas for any length of time, don't they?

A. The people know that?

Q. Yes.

A. I think they do, yes, sir.

[fol. 1316] Q. And if the people knew that the fifty-five cent rate carried a penalty of ten per cent they would pretty soon know that—I mean if that were a fact—would they not?

A. I think they would, yes, sir.

Q. Then they would pretty shortly become acquainted with the real facts and would not look at it as a difference of twenty cents a thousand cubic feet, would they?

A. Well, they are interested in any economy—there is no question about that—any economy they can get in the reduction.

Q. Of course, we all like to pay less for everything we have to buy?

A. Well, not down to where no one could make anything out of it. Nobody wants something for nothing.

Q. But there are many of your customers no doubt that would like to pay less for their cream and milk and butter?

A. Yes, sir.

Mr. Coates: That is all.

* * * * * * * *

[fol. 1317] Louis Hausman, a witness for Plaintiffs, having been duly sworn, testified as follows:

Direct examination.

Questions by Mr. Bobbitt:

Q. What is your name, please, sir?

A. Louis Hausman.

Q. Where do you live, Mr. Hausman?

A. Laredo, Texas.

Q. How long have you lived there?

A. Since 1923.

Q. What business are you engaged in, Mr. Hausman?

A. In the meat packing business.

[fol. 1318] Q. Do you own and are you President of the Hausman Packing Company?

A. Yes, sir.

Q. How long have you been operating that business in the city of Laredo?

A. Eleven years.

Q. Eleven years. Have you been operating continuously during those eleven years?

A. Yes, sir.

Q. And you are now operating that business?

A. Yes, sir.

Q. At what capacity is the plant now being operated, Mr. Hausman, approximately?

A. Approximately about seventy-five per cent.

Q. Seventy-five per cent. What is the nature generally—not in too much detail, what is the nature of the business you are engaged in there?

A. We are making fertilizer and use steam for that, and we are also refining cotton-seed oil and packing ham and killing cattle.

Q. In the general packing business—cattle, hogs and sheep and so forth?

A. Yes, sir.

Q. What kind of fuel do you use in your packing plant in Laredo?

A. At the present time we use oil.

Q. What kind of oil?

A. Different grades; we use distillate oil for our distillate [fol. 1319] engine and fuel oil for our boilers.

Q. Are you equipped for using natural gas in your packing plant?

A. Yes, sir.

Q. How long have you been so equipped?

A. Ever since we started.

Q. Are you now using natural gas?

A. No, sir, very little. We use some in the office during the winter time for heating purposes and also use some in the emergency gas engines that we have.

Q. What are you now paying for such gas as you use?

A. We have three meters; one is seventy-five cents for the office; one for the gas engines is fifty cents, and boilers, we have not been using it; that would be at the rate of twenty cents.

Q. When did you start using oil for fuel purposes?

A. Some time late in 1931 and beginning of 1932, in that neighborhood.

Q. Why did you start using oil for fuel purposes?

A. We could not compete with our competitors on fuel; our bills ran too high.

Mr. Coates: At this time we make the same objection that we made to the testimony of Mr. J. O. Walker and object for each and all the reasons stated in that objection, and for the further reason that the answer sought to be elicited from the witness and which the witness has given attempts

to state a comparison between the fuel values of different fuels, which is legally inadmissible for any and all purposes in this case.

[fol. 1320] The Court: I take it that they will complete the testimony so as to make it admissible.

Mr. Bobbitt: Yes, sir.

The Court: If not, I will strike it out.

Q. Did you state when you quit the use of natural gas?

A. At the beginning of 1932, I believe.

Q. Why did you quit using natural gas for fuel purposes?

Mr. Coates: Our objection goes to all that.

The Court: Didn't he answer that a while ago?

Mr. Bobbitt: No, sir.

A. It was too expensive for fuel purposes. We could not afford to pay twenty cents for gas for the purpose we used it.

Q. Prior to the beginning of the use by you of oil for fuel purposes what did you use?

A. Gas.

Q. Entirely?

A. Yes, sir.

Q. Approximately what was the monthly bill, if you remember, that you paid for natural gas for fuel purposes?

A. If my recollection is correct, I think we paid between three hundred and five hundred dollars a month for boiler purposes and about a hundred and fifty for gas engine and about three or four dollars for the office.

Mr. Coates: Will you read the answer?

(Thereupon the Reporter read as follows: "A. If my recollection is correct, I think we paid between three hundred and five hundred dollars a month for boiler purposes [fol. 1321] and about a hundred and fifty for gas engine and about three or four dollars for the office.")

Q. You purchased gas from the United Gas Public Service Company?

A. Yes.

Q. The local concern distributing gas in Laredo?

A. What we call the Border Gas Company.

Q. The old Border Gas Company; it is now the United Gas Public Service Company. Mr. Hausman, in your ex-

perience in your own business there in the city of Laredo in the use of gas, does the price of gas, as to whether it is higher or lower, have any effect upon your use of gas in volume?

Mr. Coates: The same objection, if the Court please.
The Court: The objection is overruled.
Mr. Coates: Note the exception.

A. It has.
Q. What effect does it have upon it?
A. Well, we can't use gas at those figures; we have to get a cheaper fuel—get something that is cheaper than gas.
Q. What price could you and would you pay for gas for industrial purposes in your packing plant in Laredo and continue the use of that gas as you have heretofore used it?

Mr. Coates: We object to that for all the reasons stated and for the further reason that it is not shown——
The Court: Let me ask this question before we go any further: The Railroad Commission did not set any industrial rate?
Mr. Coates: No, sir.
The Court: The objection is sustained.
Mr. Bobbitt: If the Court please, they complain——

(Thereupon counsel for plaintiffs and defendant conferred with the Court, out of the hearing of the jury.)

[fol. 1322] By Mr. Bobbitt:

Q. How long did you say you had lived in Laredo, Mr. Hausman?
A. Eleven years.
Q. You live in the City of Laredo?
A. Yes, sir.
Q. And use gas for residential purposes?
A. Yes, sir.
Q. Are you familiar with the general use of gas for residential purposes throughout the City of Laredo?
A. I am in a way.
Q. Are you familiar generally with the use of gas for industrial and commercial purposes in the City of Laredo?
A. Yes, sir.
Q. You have had a good deal of experience personally

and with others as to the use of gas generally throughout the community?

A. Yes, sir.

Q. Mr. Hausman, I will ask you this question: In your opinion would the lowering of the price of gas, or the sale of gas in the City of Laredo at the 55-cent rate as prescribed by the Commission, as against the present 75-cent rate, result in a larger or smaller use of gas in the City of Laredo?

Mr. Coates: We make the same objection—we make each and all of the objections previously urged.

The Court: The objection is overruled. The man may state his opinion.

[fol. 1323] A. In my opinion it would increase the sale of gas if it was lowered.

Mr. Coates: Also, we make the objection that it is based on a wrong assumption of facts.

A. I am just going on our own home consumption. We have a gas stove, and we also have a gas heater in our house; and also in the yard a gas line, where the wash woman may wash clothes. My wife discontinued washing clothes with gas because the bill was too high, and now uses wood, while if it were lowered they would not go to the trouble to use wood; and if that applies to our house, I believe it applies all over town.

Q. That is your opinion?

A. Yes, sir.

Mr. Coates: We renew our objection, because his testimony shows that he bases his assertions as to everybody in town, in general, on his own personal experience.

The Court: The objection is overruled.

Mr. Coates: Note our exception as to all this.

Q. Would that apply, that the lower price of gas would result in an increase in the number of customers?

Mr. Coates: Our objection and exception goes to all this testimony.

A. I believe it would.

Q. And also in the volume of consumption by the existing [fol. 1324] customers, in your opinion?

A. Yes, sir.

Mr. Bobbitt: That is all.

Cross-examination.

Questions by Mr. Coates:

Q. Do you own your home there in Laredo, Mr. Hausman?

A. Yes, sir.

Q. What size home is it?

A. Five room house.

Q. Do you use gas for cooking?

A. Yes, sir.

Q. Do you use gas for hearing your water?

A. Yes, sir.

Q. Do you use gas to keep warm in the winter time?

A. Yes, sir.

Q. Do you know what your average annual gas bill has been for the last three years?

A. I don't pay the gas bill. Mrs. Hausman pays it, so I am not able to say; but I believe it is in the neighborhood of six or seven dollars in the winter time.

Q. Between six and seven dollars per month in the winter time?

A. Yes, sir.

Q. And how much in the summer time?

A. Well, in the summer time, about half of that.

Q. And how long does the summer time last down there in Laredo?

[fol. 1325] The Court: He has said he didn't know much about it; that all he could do was guess.

A. If you have to know, Mrs. Hausman is here and can answer that.

Mr. Coates: He has testified that he would use more gas if the rate were 55-cents net instead of 67½ net, and what we are doing is crossing him on that direct testimony he has given.

The Court: I don't want to comment on any of the testimony. Go ahead and cross examine him.

Q. How often do they wash at your house, Mr. Hausman—that is, wash the clothes?

A. I reckon once a week.

Q. Do you know how much gas is used to boil the clothes?

Mr. Bobbitt: He told you just now that he burned mesquite wood.

Q. But did you formerly burn gas in the back-yard?

A. I did at the beginning.

Q. When did you stop?

A. I think that has been stopped ever since we moved into this particular home. We tried it out and used gas for about six months; but it has been discontinued, and that must be around about three years.

Q. About three years. You haven't used gas for boiling clothes for about three years, and you don't know how much gas was used for boiling those clothes, do you?

[fol. 1326] A. No, sir.

Q. What character of heat do you use for ironing now?

A. Electricity.

Q. You have an electric iron?

A. Yes.

Q. And have you used that all along?

A. You are going into something I don't know. I don't know what is going on at home. I am not attending to the house; that is the wife's job. I don't know how much ironing is done.

Q. So you don't know how long you have been using that electric iron around the house?

A. I have seen an electric iron off and on around the house, but I don't know how much or how often they use it.

Q. Mr. Hausman, at this time are you likewise making the electric energy that you use in your plant there?

A. Yes, sir.

Q. In fact, you put in what might be called a little refinery there, didn't you, in your plant?

A. Yes, sir.

Q. And you refine the gasoline that you used in your trucks, didn't you?

A. We do. That is under another name. That is not Hausman Brothers; it was Louis Hausman Oil Company.

Q. You use there in your packing plant the gasoline that you get from the Louis Hausman Oil Company to operate your trucks and automobiles?

[fol. 1327] A. Correct.

Q. And you likewise use a by-product, or refined product, of that crude oil to generate electricity, do you?

A. We use oil to generate electricity.

Q. You likewise use fuel oil under your boilers in the place of gas?

A. Yes, sir. Let me tell you this, though, that the gas company there was the cause of us going into the oil business.

Q. Was it the cause of your making your own electricity instead of buying it from the electric company?

A. Yes, sir; because at that time we had gas engines that drove the compressors that made thirty-five tons of ice a day. We used gas for that purpose, and we would now—those engines are still in existence, but we are not using it—but they were the cause of our going into the oil business.

Q. You have gone into that business and have your investment made?

A. Yes, sir; we are in it now.

Q. You say your monthly bill for gas under the boilers was from three to five hundred dollars a month?

A. Yes, sir.

* * * * * * *

[fol. 1328] Redirect examination.

Questions by Mr. Bobbitt:

Q. You still have your gas engine there ready to use gas if you could get it at the right price?

A. Yes, sir.

Mr. Coates: We object to that question, because it is prejudicial, and calls for a conclusion as to what is the right price, and is immaterial and has no bearing on any issue in this case. It calls for a conclusion of this witness as to the ultimate issue to be decided in this case and invades the province of the Court and jury.

The Court: I will order stricken out that part as to "the right price".

Mr. Coates: Note our exception.

Q. If I understood your testimony in reply to Mr. Coates' question, because of the increased price of gas your concern went out and sought crude oil for fuel; is that correct?

A. Yes, sir.

Q. And you still have your gas engines and all the facilities there to use gas at your plant?

A. We still have all the connections ready to use gas if we could buy it at the right price.

Q. And you would like to use gas for fuel purposes?

A. If we could get it at the right price.

Mr. Bobbitt: That is all.

[fol. 1329] Recross-examination.

Questions by Mr. Coates:

Q. When did you put in this refinery?

A. In 1932, sometime.

Q. What was the price of fuel oil per barrel at that time?

A. Fuel oil?

Q. Yes, sir; or crude oil?

A. About 75 cents a barrel.

Q. And did it continue at 75—was it 75 cents a barrel at the time you put in your refinery?

A. Yes, sir.

Q. And did it continue at that rate while you operated your refinery?

A. No; it has been down as low as 35 cents.

Q. When it was down to 35 cents did you stock up on it?

A. No, sir; we had no storage capacity; we got it about as we needed it.

Q. What is the price of crude oil now?

A. Mirando crude is 80 cents.

Q. Are you buying it at 80 cents delivered at your plant now?

A. We are buying it at all kinds of prices. We are not burning no crude oil under our boilers.

Q. I understand, but you are refining crude oil?

A. We are buying crude oil, but not Mirando crude.

Q. What are you paying for crude now?

A. Pay eighty a barrel delivered at Laredo.

[fol. 1330] Q. Whereas you were formerly paying 35 cents?

A. But not the same oil.

Q. Well, did the lower price of fuel oil at the time you put in your refinery have anything to do with your putting in that refinery?

A. Well, it had this much to do: That we could not pay that much for natural gas to burn under the boilers, and we made a test on it to see what it would cost to burn oil based on fuel oil at 50 cents, and we found that we could operate for less than half; and we gave the Gas Company a chance to come down on the gas, but they refused to do it.

Q. So you installed this refinery, because fuel oil at 50 cents was cheaper than gas at what you were paying for it?

A. Yes.

Q. Now, that oil is back up you would like to get gas back, wouldn't you?

A. No; I don't know that oil is back up. You can buy all the fuel oil you want for 60 cents a barrel.

Q. From whom?

A. From the nearest refineries.

Q. Who?

A. The Misko Refinery at Mirando; that is the nearest point.

Q. Is that delivered at your plant at 60 cents?

A. I believe we can buy it at 60. The freight rate is only 18 cents a barrel from Mirando down to us.

Q. Have you tried to buy any recently at that price?

[fols. 1331-1341] A. We have not bought any recently.

Mr. Coates: That is all.

Redirect examination.

Questions by Mr. Bobbitt:

Q. One question, Mr. Hausman. You are equipped to burn natural gas?

A. Yes, sir.

Q. If you could get gas at your plant in the City of Laredo at the same price that the same concern transports the same gas across to Nuevo Laredo and sells it there for, would you now be using natural gas?

A. Yes, sir.

* * * * * * *

[fol. 1342] JACK SCALES, a witness for plaintiffs, having been duly sworn, testified as follows:

Direct examination.

Questions by Mr. Bobbitt:

Q. Your name is Jack Scales?

A. Yes, sir.

Q. Where do you live?

A. Laredo.

[fol. 1343] Q. How old are you?

A. Thirty-four.

Q. What business are you engaged in?
A. Ice manufacturer.
Q. What is the name of your concern there?
A. The American Service Company.
Q. It is engaged in the ice manufacturing business?
A. Yes, sir.
Q. Where is your plant located?
A. 2100 Scott Street.
Q. Where?
A. In Laredo.
Q. Your plant is running at what capacity?
A. About fifty per cent right now.
Q. That is in early spring?
A. Yes, sir.
Q. At other period of the year it is larger?
A. It runs a hundred per cent in summer.
Q. What fuel do you use in your ice manufacturing business?
A. We use gas.
Q. How long have you been using gas?
A. Since 1920—ever since the plant was built.
Q. What price do you pay for gas?
A. We pay for boiler gas 18 cents a thousand for the first five million cubic feet, and 17 cents a thousand for all over that. Engine gas is 50 cents a thousand for the [fol. 1344] first 100,000 cubic feet; 35 cents a thousand for the next 100,000 cubic feet; 30 cents a thousand for the next 100,000 cubic feet; and 25 cents a thousand for all over that.
Q. What volumes of gas have you used in that plant for the last six or eight months? Have you got the notation there in thousand cubic feet?
A. Yes, sir. Well, the engines was about an average of 600,000 cubic feet a month; and the boilers will average about, I guess, about 6,000,000 cubic feet a month.
Q. A month?
A. Yes, sir.
Q. And what did you say the price was for boiler gas?
A. Eighteen cents a thousand for the first five million cubic feet, and seventeen cents for all over.
Q. And for the other?
A. Fifty cents for the first 100,000 cubic feet; 35 cents for the next 100,000 cubic feet; 30 cents for the next 100,000 cubic feet; and 25 cents for all over.

Q. Is the price of fuel a substantial factor in the operation of your plant.

Mr. Coates: We object to that as too indefinite.
The Court: The objection is overruled.
Mr. Coates: Note our exception.

A. Yes, sir; it is.

Q. It has a bearing on the amount of business you do, and the amount of gas that you burn, doesn't it?

A. Yes, sir.

[fol. 1345] Q. Mr. Scales, are you acquainted generally with the—you reside in the City of Laredo?

A. Yes, sir.

Q. You have your family there?

A. Yes, sir.

Q. Do you use gas at your residence?

A. Yes, sir.

Q. Are you familiar generally with the use of gas in the City of Laredo by the industries engaged in business within the City of Laredo?

A. Yes, sir.

Q. Are you likewise familiar with the use of gas by citizens within the City of Laredo for residential purposes?

A. Yes, sir.

Q. How long have you been engaged in the ice manufacturing business?

A. About three years.

* * * * * * *

[fol. 1346] Questions by Mr. Coates for purpose of qualifying witness:

Q. Have you ever engaged in the business of distributing and selling natural gas?

A. No, sir.

Q. Have you ever operated a natural gas distribution system?

A. No, sir.

Q. And do you know how much the average residential consumer may be expected to use there in Laredo?

A. No.

Q. With respect to residential consumers, isn't about all you know about what anybody is using, except yourself, or what they would use, is what somebody has told you?

A. True.

Mr. Coates: We renew our objection.
The Court: The objection is overruled.
Mr. Coates: Note our exception.

Q. And with respect to the use of gas by other industrial consumers there, isn't about all that you know about that is what they have told you?
A. Yes, sir.

* * * * * * *

[fols. 1347-1351] Questions by Mr. Bobbitt:

Q. Answer the question.
A. Yes, sir; it would.
Q. Would it increase it or decrease it?
A. Increase it.
Q. Substantially, in your opinion?
A. Yes, sir.
Q. The same question with respect to the use of gas for residential purposes: would the lowering of the price for residential purposes to 55 cents per thousand cubic feet, as fixed by the Commission, as against the old existing price of 75 cents, result, in your opinion, in an increased use of gas within the City of Laredo?
A. Yes, sir; I think it would.
Q. Would there be an increase, in your opinion, in the number of users of gas?
A. Yes, sir; I think so.
Q. Would there not be an increase in the volume of gas used by existing customers?
A. Yes, sir.

Mr. Coates: It is understood our objection goes to all this testimony?
The Court: Yes, sir.
Mr. Bobbitt: I believe that is all.

* * * * * * *

[fol. 1352] H. M. IRVIN, a witness for Plaintiffs, having been duly sworn, testified as follows:

Direct examination.

Questions by Mr. Bobbitt:

Q. What is your name, please, sir?
A. H. M. Irvin.
Q. H. M. Irvin. How do you spell it?
[fol. 1353] A. I-r-v-i-n.
Q. How old are you?
A. Thirty-three.
Q. Where do you live, Mr. Irvin?
A. Laredo, Texas.
Q. Do you reside in the city limits?
A. I reside in the city limits of Laredo.
Q. Do you own your residence there?
A. No, sir; I rent my residence.
Q. You live there, however?
A. I live there, yes, sir.
Q. What business are you in?
A. I am engaged in smelting and refining antimony.
Q. Smelting and refining antimony. What kind of business is that, Mr. Irvin?
A. Well, it is the only plant of its kind in the United States. It is a metal which most people are not familiar with. We reduce ore in a blast furnace and later refine it in reverberator furnaces.
Q. Is that the Texas Mining and Smelting Company?
A. Yes, sir.
Q. Called the Timonox plant?
A. That is right.
Q. How long have you been engaged in that business, Mr. Irvin?
A. Well, I have been engaged in that business about ten years but in Laredo since 1930—the end of 1930.
[fol. 1354] Mr. Coates: Excuse me. Is your plant located within the city limits?
A. The plant is not within the city limits.
Mr. Coates: About how far is it?
A. It is about three miles north of the city limits.
Q. Is there any part of your smelting properties located within the city limits?

A. No, sir.

Q. Well, what fuel do you use out there in the smelter?

A. We use——

Mr. Coates: The same objection, if the Court please. It is shown that it is located outside the city.

The Court: Well, what objection is there to showing what fuel he uses?

Mr. Coates: Well, it is a waste of time.

The Court: Well, the objection is sustained.

Mr. Bobbitt: Well, we are not permitted to go into that?

The Court: No, sir.

Q. Well, you use gas furnished by the United Gas Public Service Company at your residence, do you not?

A. Yes, sir.

Q. Are you familiar, Mr. Irvin, with the use of gas for residential purposes within the city of Laredo?

A. Yes, sir.

Q. From your own experience and that of your neighbors and friends living there within the city?

A. Yes, sir.

[fol. 1355] Mr. Coates: May I ask him——

Mr. Bobbitt: Let me get through.

Q. Are you acquainted generally, Mr. Irvin, with the use of natural gas for residential purposes within the city of Laredo?

A. Yes, sir.

Mr. Bobbitt: Now, go ahead.

Questions by Mr. Coates:

Q. You have never engaged in the business of selling and distributing natural gas, have you, Mr. Irvin?

A. No.

Q. Do you know the average annual consumption per residential consumer in Laredo?

A. I believe it is about 36,000 to 40,000 cubic feet.

Q. From what source did you obtain that information?

A. I was told.

Q. I see. Do you know the average amount per residential consumer used for cooking?

A. It is about 1,500 to 2,000 cubic feet per month.

Q. And about how much for water heating?

A. Well, that depends upon the size of the family. I imagine an ordinary family would use about a thousand cubic feet per month.

Q. And how much for heating?

A. Well, that depends on the size of the house. I imagine a five-room house, kept warm, would use about 5,000 cubic feet per month.

Q. For how many months?

[fol. 1356] A. For about three to four months.

Q. Now, have you ever made a survey of consumers in Laredo to see which ones are using gas and which are not?

A. Not an extensive survey of the town, no, sir.

Q. Well, have you made any character of survey?

A. Well, it so happens that in my work I am called upon to analyze different types of consumption of gas within our plant and within the houses of the workmen, and I have that knowledge.

Q. And have you made a similar survey with reference to the number of users of water there in Laredo?

A. No.

Q. Do you know whether there are more gas meters or more water meters in Laredo?

A. I should say there are more water meters.

Q. That is the usual situation that you find in a city, is it not?

A. I imagine so, yes.

Q. And do you know whether there are more electric meters or more gas meters?

A. I don't know.

Q. Do you think there are more gas meters or more telephones?

A. I don't know.

Q. But if it should happen that there are more gas meters than water meters, that shows a pretty high extent of use?

A. I think so, yes, sir.

[fol. 1357] Q. Now, as a matter of fact, isn't the extent of your knowledge about what the people do based on your conversations with other people and what they have told you?

A. Well, yes. I have not seen everybody's gas bill.

Q. And you can't speak with authority and personal knowledge as to any one except yourself?

A. No, that is not true, because certain people I have talked to directly about their individual consumption; they are my friends.

Q. You know what they have told you?

A. Yes, sir.

* * * * * * *

[fol. 1358] Q. Now, Mr. Irvin, from your knowledge personally and your knowledge of the situation of natural gas within the city of Laredo for residential purposes, would there, in your opinion, be an increase in the use of gas if the price were fifty-five cents per thousand cubic feet as fixed by the Commission as against the higher price of seventy-five cents?

Mr. Coates: The same objection.

The Court: The objection is overruled. Go ahead.

A. I think there would be an increase, for heating, distinctly.

Q. For residential heating?

A. For residential heating, yes, sir.

Q. In your opinion would it result in an increase in the number of consumers or users?

A. Yes.

Q. In your opinion would there be an increase in the volume of existing consumers?

A. Yes, sir.

Q. At the lower price as against the higher price?

A. Yes, sir.

Mr. Bobbitt: That is all.

[fol. 1359] Cross-examination.

Questions by Mr. Coates:

Q. In your acquaintanceship with Laredo do you know about what per cent of the population down there is of Mexican extraction?

A. I believe there is supposed to be twenty-six thousand out of thirty-two thousand of Mexican extraction.

Q. It is a substantial part—I don't mean all, but is a substantial part of the Mexican population of the lower class?

A. Well, a substantial part, yes.

Mr. Bobbitt: What do you mean by "the lower class"—do you mean folks that work?

Mr. Coates: No. I have heard you describe it, Mr. Bobbitt,——

Mr. Bobbitt: I just asked what you meant.

The Court: Well, Gentlemen, let's conduct this case like it ought to be.

Mr. Bobbitt: Yes, sir; I think so.

Q. Now, is the purchasing power of the people in the town, so far as you know—that is, of the town itself—to be compared with a town having an Anglo-Saxon population such as we have inland and northward from there?

A. No.

Q. Do you know the total number of bank deposits there in the town?

The Court: Total what?

[fol. 1360] Mr. Coates: Bank deposits.

A. Number of depositors?

Q. Yes.

A. No, sir.

Q. I mean the total number of bank deposits.

The Court: Go ahead.

Q. Do you know how many people there are in Laredo that make a dollar a day or less?

A. I don't know exactly. Well, now, in Laredo proper there is hardly anybody that does. Of course, the Government relief compaigns and N. R. A. have raised them above a dollar a day. It is according to whether you are speaking of the district of Laredo or the city of Laredo.

Q. The city of Laredo?

A. I would say you would have a hard time finding anybody that works for less than that.

Q. That is because of the Government relief work?

A. Yes, sir, and the N. R. A.

Q. Do you know how many or what per cent of the population are either partly or wholly dependent either on public charity or Government relief work?

A. Well, there were some figures published in the paper. I believe there were about 1700 on the C. W. A. payroll and about 1200 on direct relief.

Q. And do you know how many houses of four rooms or better adjacent to the company's lines and now occupied are not using gas?

A. No, I don't know.

[fol. 1361-1362] Mr. Coates: I believe that is all.

Redirect examination.

Questions by Mr. Bobbitt:

Q. You see dozens of trucks going by your plant out there hauling mesquite wood into town, don't you?

A. Yes, sir.

Q. Every day?

A. Every day, yes, sir.

* * * * * * *

[fol. 1363] Henry E. Elrod resumed his testimony and testified as follows:

Cross-examination continued.

Questions by Mr. Coates:

Q. Mr. Elrod, you used as cost of excavation on transmission lines five cents per foot of trench, did you not?

A. Yes, sir.

Q. That was the same figure that you used when you testified before the Railroad Commission?

A. Yes, sir.

Q. And that is estimated on the basis of the performance of a Buckeye No. 2 Trencher, isn't it?

A. No. 32?

Q. Buckeye No. 32 Trencher.

A. Just a moment; I will see. (Witness consults data.) Yes, sir, No. 32.

[fol. 1364] Q. Removing—well, cutting how many lineal feet of ditch per average day?

A. 3552.

Q. And how long a working day do you contemplate?

A. Ten hours.

Q. Ten hours?

A. Yes, sir.

Q. Have you figured in any cost of changing your crews on that trencher?

A. No, I haven't except in overhead cost.

Q. How much did you figure in in overhead cost?

A. Twenty-five per cent.

Q. Twenty-five per cent?

A. I figured in fifteen before.

Q. And that is, you figured out an average cost per foot of trench of 3-½ cents for that—per foot of ditch for that trencher, didn't you, for the machine excavation?

A. I figured 3.39.

Q. 3.39. Now, how much additional for mucking, hand-excavation, rough spots, trimming ditch, and so forth?

A. 25 per cent.

Q. 25 per cent?

A. Yes, sir.

Q. And what over-all figure does that give you?

A. That gives 4.23 per cent, and I have rounded it out to five, which would make——

Q. You have rounded it out to five?

[fol. 1365] A. Yes, which would make about 40 per cent for hand-trenching or for other work.

Q. Now, how did you compute your cost of hauling and stringing for transmission lines?

Mr. Bobbitt: Hauling and stringing transmission?

Mr. Coates: Yes, transmission line pipe.

A. That was figured on different bases for different places. For instance, on the Aguilares to Carolina-Tex if was 2.35 a ton.

Q. That is per ton or ton-mile?

A. 2.35—I will see in just a second. (Witness consults data). I will take it right straight through—Laredo to Target Range, is 4.9 miles, and the cost is 1.50, and between Target Range to Pescadito is 8.9 miles, that costs 1.60. Pescadito-Junction to Aguilares is 10-½ miles, and the cost is 1.65; Aguilares to Carolina-Tex Field is 12-½ miles, which comes to 2.35 a ton.

Q. Now, what type and character of truck did you base your estimate of performance on?

A. I used a 1-ton truck with an average speed of 16 miles per hour.

Q. Average speed of 16 miles per hour. Any particular make—Chevrolet, Ford, or what?

A. Well, I don't think that makes much difference. I hadn't given that any particular consideration.

[fol. 1366] Q. And did you figure in your gas and oil?

A. Yes.

Q. What price for gasoline?

A. Oh; I didn't figure any gas and oil; I figured a dollar an hour for the truck and driver. We are renting trucks and drivers on the work near Mathis for the City of Corpus Christi for 90 cents an hour.

Q. Now, in computing your price of pipe f. o. b. Laredo or f. o. b. delivery point, did you compute that price in carload lots?

A. Yes, sir.

Q. On the basis of quantity purchases?

A. Yes, sir.

Q. And under the latest quotations that have been given you by pipe manufacturers?

A. Yes, sir.

Q. And with respect to dresser couplings did you figure that on the basis of quantity purchases?

A. Yes, sir.

Q. And on the basis of delivering dresser couplings in carload lots?

A. Yes, sir.

Q. I believe you have previously testified, Mr. Elrod, that in making the appraisal of these properties you endeavored to reproduce the identical properties in the manner in which [fol. 1367] they were originally produced?

A. Yes, sir.

Q. Did you ascertain whether these trenchers—as this property was originally produced were cut with a No. 32 Buckeye Trencher?

A. No, sir.

Q. And did you find out whether any of them were hand excavation?

A. No, sir.

Q. Then to that extent you have varied from producing them in the manner in which they were originally produced, have you not?

A. No; that information was not available, and I had to use my best judgment as to——

Q. You had to use your best judgment?

A. Yes, sir.

Q. Well, do you know whether there were any Buckeye No. 32 models back in 1922?

A. I don't know whether there were any Buckeye 32's in '22.

Q. The modern type is more efficient than the old type, is it not?

A. Yes, I suspect it is. Most modern machinery is more efficient than older machinery.

Q. And did you ascertain whether all this pipe was hauled out to location, at the side of the ditch, with trucks, or some of it with mules and wagons?

[fol. 1368] A. No, I didn't. I suspect some of it was hauled by mules and wagons, but I have no way of knowing.

Q. And so you used or based your estimate on hauling it with modern type trucks?

A. Yes, sir.

Q. Did you ascertain whether, as these properties were originally produced, the pipe was all sent down in carload lots?

A. I had no way of ascertaining that information, of course.

Q. You get a lower price for pipe in carload lots, don't you?

A. Yes, sir.

Q. Did you ascertain whether the dresser couplings came in carload lots or l. c. l. lots—less than carload lots?

A. I had no way, of course, of ascertaining that information.

Q. And your freight rate on dresser couplings in carload lots is less than it would be in less than carload lots, is it not?

A. Yes, sir.

Q. Well, did you compute this cost of hauling on the basis of hauling over highways of the kind and character that existed when this property was originally produced?

A. No, I think my figures fairly represent the hauling regardless of how it was hauled.

Q. Then to that extent you have either been without knowledge or have varied from your concept of producing [fol. 1369] these properties as they were originally produced, did you not?

A. We have had to exercise the best judgment that we could in arriving at the prices for the various elements of property and the manner in which it was done. Where it

was possible to obtain information as to how the construction was originally done, that information was made use of; and where any bit of history could be utilized, it was utilized.

Q. But in respect to quantity purchases, hauling by trucks, cutting ditches by trenchers, and carload haulings, why, those all may have a lower price?

A. Yes.

Q. Turn, now, to page A of Plaintiffs' Exhibit 9. You show there on page A, at the top of it, Total Volume Gas M. C. F. 465,081. What volume of deliveries does that represent?

A. That is the total volume of deliveries to the Laredo area.

Q. Does that include the deliveries to the Laredo City Gate?

A. I should think it does. Those figures were given me by the Auditor.

Q. What did you ask him for, Mr. Elrod?

A. I asked him for just that—the total volumes of gas for the area outside of the city and the total volumes of gas delivered to the City Gate for use inside of the City.

Q. Well, did you mean to ask for total volumes of [fol. 1370] deliveries to all delivery points along the Carolina-Texas-Laredo line?

A. That is what I presumed I was getting.

Q. Well, that is what you asked for, wasn't it?

A. Yes, sir.

Q. And does that include deliveries at Aguilares?

A. I don't know whether it does or not. I have no detail of that.

Q. That is what you asked for, didn't you?

A. I have no detail of that. I made no special mention of deliveries at Aguilares.

Q. Does it include deliveries at Mirando City?

A. I don't think it includes those deliveries, but I don't know. I don't know the details of that. That information was furnished by the Auditor.

Q. Well, I know, but you had to ask him and make your request sufficiently specific so he would know what to give you, didn't you?

A. Yes, sir.

Q. And did you ask him for deliveries to all market points in what has been referred to here as the Laredo Sector?

A. That was my understanding.

Q. That was your understanding of what you got; and that is what you meant to get, is it not?

A. Yes, sir.

Q. And the delivery figures which would include deliv-
[fol. 1371] eries at Aguilares?

A. Well, as I say, I don't know.

Q. Well, is that what you intended to get from him?

A. I intended to get the figures from him that would represent the total volumes of gas that would be distributed by the transmission systems that would be allocated to Laredo, and that was the figures that was given me. Whether that included Aguilares or not I will just frankly state that I don't know, because I didn't have the detail of it.

Q. Well, is that——

A. Pardon me a second. Let me find the paper that was given me in connection with those figures. (Witness consults. data.)

Q. All right.

A. The total figure of 465,081 feet includes 630 M. C. F. to Aguilares; 2612 feet to Oilton; 12,037 feet to Mirando; 1396 feet to Rosenberg; and 901 feet to Cuellar; making a total of 465,000. There were 317,071 feet inside, and 130,434 feet outside.

Q. Now, in your appraisal marked Plaintiffs' Exhibit 9, you have excluded from consideration, and have not included in your appraisal, any valuation of the lines leading to Mirando City, Oilton, and the Misko Refinery, have you?

A. No, sir.

[fol. 1372] Q. But you have taken the volumes of gas to all these points, including deliveries at the Laredo City Gate, and used that as 100 per cent, have you not, in making your allocation factor?

A. Yes, sir.

Q. And do you know approximately what percent of this 465,000 M. C. F. the deliveries to Mirando City, Misko, and Oilton include? It is about four per cent, is it not?

A. I didn't figure it. If that is the right figure——

Q. Well, between three and a half and four per cent—is that what your memorandum shows, roughly?

A. 3.78.

Q. 3.78. Now, you understand the basis on which Mr. Greene proceeded in Defendant's Exhibit 9, do you not, with respect to allocations of these lines in here? (Indicating on map.)

A. I don't know whether I did or not. I don't know whether—I don't remember having heard his testimony on that.

Q. Well, to refresh your memory, didn't Mr. Greene include all this system in here (indicating on map) as one common inter-connected transmission system, and then apportion out a portion of all of it, based on the ratio of volume of deliveries to the City Gate to volume of deliveries at other points along the line?

[fol. 1373] A. Well, I just don't recall. If that was his testimony, why——

Q. Now, let me ask you this: by including in what you use for 100 per cent the volume of deliveries to Mirando City, Oilton, Misko Refinery, Aguilares and Pescadito, and then apportioning out the difference between 465,000 M. C. F. and the deliveries at the City Gate, haven't you apportioned a part of the line from Laredo to Pescadito Junction—at least 3.78 per cent of it—to these markets in here? (Indicating on map.)

A. Yes, I think so.

Q. Well, don't you know that is wrong?

A. I will have to think about that, Mr. Coates.

[fol. 1374] Q. Well, you did the same thing before the Commission, didn't you?

A. Yes.

Q. And you have had ever since then to think about it, haven't you, Mr. Elrod?

A. Well, I thought I was right then.

Q. Well, do you still think you are right?

A. I still think I'm right, yes.

Q. Then you do not think you have apportioned 3.78 per cent of the city gate line, that is the line from Pescadito to Laredo, to the markets, Aguilares, Mirando City, Misco Refinery and Oilton?

A. I will get you that; I will have to examine these figures a little more carefully to——

Q. You will have to get those figures?

A. I will analyze these figures.

Q. Well, will you do that over-night?

A. Yes.

Q. And if it does happen that you have apportioned a part of that city gate line—that is, the one from Pescadito to Laredo, to these markets, Aguilares, Mirando City, Oilton and Misco Refinery, don't you think your appraisal of the line from Pescadito to Laredo ought to be increased by 3.78 percent?

A. No, I do not.

Q. You don't?

A. No.

Q. Why not?

[fol. 1375] A. Well, I do not think that the fact that that gas is allocated out has anything to do with the allocation of the line as a whole—that is, the gas that passes through the line, it passes thru the line just the same, whether those lines from Aguilares Junction, Mirando City, Misco and Oilton are in there or not.

Q. I understand, and that dropped 3.78 percent of that volume off up there at Aguilares?

A. Yes.

Q. And that line then from Pescadito to Laredo, is used solely for serving gas to the Laredo city gate, is it not?

A. Yes.

Q. Then do you think any part of that line should be apportioned to Mirando City, Oilton and those other markets?

A. That is an involved question. I will answer it in the morning. I will analyze those figures.

Q. Well, can't you answer it now, Mr. Elrod?

Mr. Fitzhugh: Just an inquiry—Mr. Coates, do you mean the part of the Aguilares—Laredo line, in the way you framed your question there?

Mr. Coates: Well, the Pescadito-Laredo line; either Aguilares-Laredo or Pescadito-Laredo.

Mr. Fitzhugh: Well, the lines that go to Mirando City, Misco and Oilton are not included in here, are they?

Mr. Coates: No, but he has included the volumes of gas delivered to those markets in his 100 percent and then he has [fol. 1376] taken, or using that as 100 percent, he has taken the ratio between the city gate deliveries and that 100 percent, and apportioned only 68.18 percent of that line to Laredo, and in doing that, he has apportioned 3.78 percent of that line to those small markets, the four I named there.

Mr. Fitzhugh: Then I object to the question, if the Court please, because nothing is shown preliminary to the question about any lines that go to Mirando City and Oilton and these other towns, being included, and nothing to show that the delivery to Aguilares, as to the volume of the gas, does not preclude that consideration; the volumes of the gas delivered to Laredo would be just the same, whether——

The Court: Well, this is your witness, who has qualified as an expert and he is on cross examination; I overrule the objection. However, if the witness wants to have until the morning to answer the question, I will grant him that time. I will not insist upon his answering now.

Q. Do you prefer to wait until morning to answer that?

A. Yes, I prefer to wait until morning.

Q. All right. I have made some inquiry, Mr. Elrod, about your appraisal of the transmission lines. That is, you have given a breakdown of your unit costs—the breakdown of the unit costs that you gave on these transmission lines; that includes in units by foot of line costs of material and costs of installation, does it not?

A. Yes.

[fol. 1377] Q. And have you appraised the distribution mains in the same way; that is, by the application of unit costs derived in the same way?

A. Practically; there are some differences.

Q. And have you likewise made your appraisal of the telephone lines in the same way?

A. Practically; no, the telephone lines are appraised a little differently. Each item is appraised, priced out separately and the total is added and labor is added to that.

Q. But the figure that you show for transmission system property and distribution system property at the top of page B of Plaintiff's Exhibit 9, less lands of course, includes your appraisal of the direct structural costs—that is, the costs of material plus costs of installation?

A. Yes.

Q. And that includes meters and street service lines and so forth, does it not?

A. Yes.

Q. They were priced out in that same way weren't they?

A. Yes.

Q. And then you have added to these direct structural

costs there what you refer to, I believe, as undistributed or general overheads, have you not?

A. Yes.

Q. Which brings you down to the figure cost new, on page B of Plaintiff's Exhibit 9, before adding overheads, of the [fol. 1378] sum of $783,712.00, and cost new less depreciation of $596,524.00?

A. Yes.

Q. And the remainder of the additions, to get your totals over on page C are what you call your overheads or undistributed construction costs, materials and supplies and working cash, are they not?

A. Yes.

Q. Did I understand you to testify that you had included going value in Plaintiff's Exhibit 9?

A. I had not included it as a separate item.

Q. Have you included going value in the appraisal of these properties as shown by Plaintiff's Exhibit 9?

A. No, sir.

Q. You have not. Now, Mr. Elrod, when you went off the stand the other day, I believe you stated you had given transmission lines an average life of 33 years. Is that correct?

A. I do not recall that it was. We gave transmission lines—well, maybe it was.

Q. Well, don't you know? Three percent a year, wasn't it?

A. The ten inch O. D. pipe, on page 37 of the exhibit or section, was given an arbitrary percentage of 67 percent, or two-thirds new.

Q. Or two-thirds new?

A. Yes, because it was used pipe.

Q. And how did you know it was two-thirds new?

A. That was the result of conferences with Mr. Neff who [fol. 1379] had seen the pipe, and the statement that it had been used at Jasper, and my examination of pieces of the pipe that were left on the site where it was culled.

Q. Now, Mr. Elrod, I didn't mean to call for any hearsay testimony from you.

A. Mr. Neff is here and can testify.

Q. I asked you how you knew, and not what somebody told you about it and we move to strike out the witness' answer as not responsive.

The Court: I think it is responsive to the question you asked. It may be hearsay; but you asked him how he knew and he told you.

Mr. Coates: I was calling for his own personal knowledge with respect to the matter, and we move the answer be striken as not responsive and as hearsay.

Mr. Stout: We submit, if the Court please, as an expert he has the right to get his information any way he can.

The Court: I have tried to keep out hearsay, but where a lawyer cuts down and asks how he knows, and he tells you, I can't help that. I overrule the motion.

Mr. Coates: Note our exception.

Q. So somebody told you that was two-thirds new, did they?

A. No, that was arrived at as a result of our judgment in examining the condition of the pipe and the pieces of pipe that were culled and left on the site after the work was done.

Q. And was that a result of——

[fol. 1380] A. —and Mr. Neff, with whom I was working, saw the pipe during the processes of culling and reconditioning.

Q. And therefore you arrived at that judgment from looking at pipe that was not put in the line, that the pipe in the line was two-thirds new, did you?

A. Yes.

Q. And do you say that is just an arbitrary figure?

A. Yes, representing our best judgment as to the value of that pipe.

Q. I see. Now, what other lines did you give a 33 years average life—and I am talking about transmission lines now.

The Court: Gentlemen, I have decided I am wrong about my ruling while ago, and I now strike from the record what this witness says Mr. Neff told him about the pipe being dug up at Jasper, Texas, and you will not consider that at all.

A. Maybe I didn't *not* state that just clearly; Mr. Neff did not tell me the pipe was dug up at Jasper.

The Court: I understood you to state that.

A. I did not intend to state that, and if I did, it was mistaken and should be corrected; it was a statement made on the stand at the hearing at Laredo.

Q. Well, somebody told you, didn't they?

A. Yes, I say somebody told me—the statement was made on the stand by the company's witness, who is present.

Q. What witness?

A. Mr. Greene.

[fol. 1381] Q. I thought your statement the other day was that Mr. Laten Stanberry made that remark?

A. If I am mistaken, I do not mean to be.

Q. I am sure you did not, but we would like for you to be sure about your answer.

A. I am going to explain just what I did say. The question was asked about the pipe being second hand pipe or used pipe, and Mr. Stanberry asked the witness—and I am not quite sure whether it was Mr. Abernathy or Mr. Greene who was on the stand at the time—if that pipe did not come from Jasper, and the witness replied that it did.

Q. What about 1923?

A. That information came from another source.

Q. From another source?

A. Yes.

Q. Are you taking a part of the information from one source and part of the information from another source?

A. And a part from another source, and piecing it all together and arriving at my conclusion that the pipe, as used pipe, is two-thirds of its cost new.

Q. Didn't Mr. Abernathy say he knew this pipe was not purchased until 1927?

A. I do not recall.

Q. You have read the record in the last two or three days, have you not?

A. I don't recall that I have.

[fol. 1382] Q. Didn't I show you the place in the record where Mr. Abernathy so testified?

A. Yes, I believe you did.

Q. And didn't that state that that pipe was not purchased until 1927?

A. I just don't remember, but if it did, that is correct.

Q. But you have used part of that information, and have not used the rest of it, have you?

A. That's right. I used the information that it came from Jasper.

Q. But you did not use the part of the information that it was not bought until 1927?

A. Yes. And I believed that I was correct in doing it.

Q. So you figured that pipe was two-thirds new, did you?

A. Yes.

Q. All right; where else have you failed to use a 33 year life?

A. A section of eight inch pipe between Target Range and Pescadito, that was taken up and relaid in 1931, from pipe originally laid in 1910; that is the best of our information—and that too was given two-thirds value new, or 67 percent.

Q. All right?

A. All of the other sections, I believe, are given three percent straight depreciation.

Q. Now, this figure you show for that eight inch pipe between Target Range and Pescadito, referring to page 37 of Plaintiff's Exhibit 9, of 94 percent, when you consider all your deductions, that is really 61 percent of new, isn't it?

[fol. 1383] A. Well, it is 94 percent of 67 percent, and if that is 61 percent, that is correct.

Q. And in the same way with respect to the ten inch line, you first deduct 33 percent, and then you deduct six percent more, don't you?

A. Yes. That is, we give two years at 3 percent, or six per cent after the pipe had been reconditioned and placed in the ground

Q. Now, with respect to distribution mains, what age life did you use?

A. That was given two percent.

Q. That is, 50 year life on what mains?

A. On the pipe under pavement.

Q. What on pipe not under pavement?

A. On the black pipe, we gave it 45 percent condition, and the protected pipe, 72 percent condition—that is, the painted pipe; and the enameled and wrapped pipe, 85 per cent condition.

Q. What age life did you use?

A. We did not use any age life on it, because we did not know what the age life was.

Q. Now, when you came to bring your appraisal for 1932 down to 1933, on mains under paving, how much did you deduct?

A. We took off five percent.

Q. On mains under paving?

A. No, we took off three percent.

Q. Why did you change from two percent a year to three percent a year?

[fol. 1384] A. Well, we had a year and a half difference.

Q. You had a year and a half?

A. Yes.

Q. What span of months is that year and a half?

A. That was from July—it was seventeen months. July 31, 1932 to December 31, 1933.

Q. Did you inspect that pipe in July, 1932?

A. It was inspected prior to July, 1932.

Q. Prior to July, 1932. So that is really a year and a half?

A. Yes.

Q. Now, what did you take off on this pipe that was not under paving?

A. I think we took off five percent on the black pipe.

Q. What span of months does that cover?

A. That covers the same span of months.

Q. And what age life is that?

A. Well, I don't think we had any age life on it. I think that pipe was arrived at or the percent condition was arrived at by inspection and the use of a supposed or a guessed at age and life.

Q. All right; now did you use age-life to deduct this five percent to show 1933 over 1932?

A. I don't think we did. I think we just arbitrarily reduced the figures as they are shown.

Q. Just arbitrarily reduced them five percent for all mains not under paving?

[fol. 1385] A. Yes.

Q. But the three percent that you deducted from the mains under paving, that is two percent a year, for one and one-half years, is it?

A. Yes—or I won't say that—It was just three percent that we reduced the condition.

Q. And it had no relationship to the two percent a year that you deducted from those mains under paving, prior to that time, Mr. Elrod?

A. I don't believe it did. This part of the work, as testified to before, was done by Mr. Shaw.

Q. He was in your employ?

A. It was done under my supervision, of course, and in deciding on the rates to be used at this time, these rates

were decided on—that the eight inch pipe, two percent; that is, the eight inch pipe under pavement, two percent; and the six inch pipe, two percent, and four inch pipe two percent, and the pipe not under pavement, 45 percent for the black pipe, painted pipe 72 per cent, and the enameled and wrapped pipe, 85 percent.

Q. Were those the 1932 or the 1933 figures you are using?

A. 1933 figures.

Q. But the mathematical calculation gone through with, was to deduct five percent from the percent condition you gave for 1932?

A. From the pipe not under pavement, and that was [fol. 1386] based on the fact that the pipe not under pavement, the unprotected pipe, was going out in about twenty years. When I made inspections of the pipe early in 1932, we found pipe being removed from the system at that time that had been put in in 1910 or 1911.

Q. And so you got your twenty year age life period, at the rate of five per cent per annum, from that data; did you?

A. Yes. That is, in part.

Q. And the fifty year life for mains under paving, that is just arrived at on the basis of your best judgment?

A. And it was conditioned pipe. That is, it was well prepared, cleaned, painted and wrapped and it should have a life under pavement of fifty years.

Q. All right. Now, I believe you have stated that the life tables do contemplate all retirements on account of corrosion and physical deterioration, but do not contemplate retirements on account of inadequacy and casualties. Wasn't that your testimony?

A. Yes.

Q. Do these life tables contemplate retirements on account of requirements of governmental authorities?

A. Just what do you mean by that?

Q. Well, where you have a main on the highway, and they want to increase the width of the highway, you have to move your pipe over, don't you?

A. Yes.

Q. And where you have a main down the side of the [fol. 1387] street and they want to put down a storm sewer, you have to take up the main, don't you?

A. Yes.

Q. And where you have mains laid on an unpaved

street, and they put on a paving program, you have to lower your mains, do you not?

A. Yes, that is true.

Q. And that necessitates some retirements of property, usually, doesn't it?

A. Yes.

Q. And those are things, Mr. Elrod, that are commonly met with, are they not?

A. Yes.

Q. Now, does it contemplate retirements on account of changes in load centers?

A. No. The tables that I have used have contemplated the life of the pipe.

Q. That is, by life of the pipe, you mean the normal span of years from the average date of installation to the average date of retirement?

A. Yes.

Q. And that is retirements on account of corrosion and physical deterioration?

A. Yes.

Q. And they do not contemplate retirements of transmission lines on account of depletion of fields, do they?

[fol. 1388] A. No, sir.

Q. Nor by reason of the depletion of gas producing areas?

A. No, sir.

Q. Now, you have not worked out this percent condition for each joint of pipe, but have just applied a percent condition to each section of line of the same size, have you not?

A. Yes.

Q. Now, does ordinary maintenance tend to prolong the average span of years in service of a transmission line or of a distribution system main?

A. Yes, unless that maintenance is applied it is going to go out much quicker than the span of life given it in the table.

Q. And you have contemplated in your life tables—you have considered ordinary maintenance?

A. Yes.

Q. And that ordinary maintenance retards loss of value through physical deterioration and corrosion, doesn't it?

A. Yes.

Q. And it raises the percent condition, doesn't it?

A. Yes, but it can not forestall the ultimate end of the pipe, however.

Q. Now, does the reconditioning of a pipe line—that is, where you strip the line, take up the pipe, cut the welds, clean, sand-blast, cull, prime, coat and turn over the pipe and put it back in the ditch as a reconditioned job; does that offset loss in value of that line?

[fol. 1389] A. Not entirely.

Q. Does it tend to offset it?

A. Yes; of course any maintenance tends to offset the depreciation of the pipe.

Q. Do you consider that as ordinary, current maintenance—a reconditioning job?

A. I think a reconditioning job is deferred maintenance.

Q. And do you think it should be charged to operating expense? I am asking you as an engineer.

A. I do not think deferred maintenance, when it becomes of a considerable proportion, should be charged to operations. However, depreciation is an operating charge.

Q. Yes. Well, should it be charged to a reserve for depreciation, retirements and replacements?

A. When it amounts to a considerable item, as the replacement of any major element.

[fol. 1390] Q. Now, does the installation in the line of a substantial number of replacements, that is, new joints and stretches of pipe, raise its per cent condition?

A. Yes; it does. I will qualify that by saying that the installation of new joints in a line—that is, how much it will raise its condition depends on how well the pipe has been maintained, and how frequently it has to be done. For instance, I think, in this particular territory, or rather in Laredo, where the pipe laid is under discussion, that in certain parts of the country the soil is of such a corrosive nature, that this work of reconditioning and replacing and adding joints from time to time is almost a continuous process, or used to be, and the pipe will stand just so much of it.

Q. Has any protective coating been yet discovered by engineers that will protect the pipe against the attack of corrosive soil?

A. I think so.

Q. What is the name of that protective coating?

A. Well, I should qualify that statement. There are certain conditions of the soil perhaps that no protective coating could protect the pipe absolutely. The asphaltic protection—Barrett's Enamel perhaps will come nearer being a permanent protection.

Q. Is Barrett's Enamel an asphalt?

A. No, sir.

Q. But do you think Barrett's Enamel applied to steel [fol. 1391] pipe will protect that pipe against the attack of corrosion in the character of soil that you have in the hot spots around Laredo?

A. Not ultimately; that is, it won't be a complete protection to it.

Q. Now, a number of those lines are protected by Texaco asphalt, aren't they?

A. Yes, sir.

Q. That is a product put out by the Texas Company?

A. Yes, sir.

Q. Likewise protected by felt saturated with asphalt, isn't it?

A. Yes, sir.

Q. And is the asphaltic coating you were referring to?

A. Asphalt coating with felt protection.

Q. That is the coating that was on the Pescadito-Jennings line, wasn't it?

A. Yes, sir.

Q. Then, as I understand your testimony, there has been no protective coating yet devised that will permanently retard or prevent the attack of corrosion on the pipe from corrosive soils?

A. I think that is right. However, great advances have been made recently in the protection of pipe electrolytically, as well as mechanical means, coatings, and wrappings.

Q. Has that been put to the thorough test of experience?

A. Well, of course, the electrolytic system has not been invented long enough to tell; but from the principle of the [fol. 1392] thing, and the theories applied over several years, it looks as though it might be a permanent protection.

Q. Now, Mr. Elrod, doesn't the application of age-life tables, that is three per cent per year, based as it is on the average span of years from date of installation to date of retirement, taking into account current maintenance

only, ignore the extent to which your per cent condition has been raised by reconditioning jobs?

A. Yes.

Q. And the extent to which the per cent condition of these lines has been raised by the replacement of new joints of pipe?

A. Are you asking me the per cent condition it has been raised?

Q. No. I say, doesn't the application of the life table of 33 years, taking into account, as it does, the average span of years from date of installation to date of retirement, and taking into account only current maintenance to these lines here, ignore the extent to which the per cent condition of those lines has been raised by replacements of pipe in the line?

A. Yes. However, the examinations that were made of the pipe, in connection with the knowledge that we were able to obtain as to the date of installation, indicated that the pipe was in the condition that was given it.

Q. But in no instance have you varied except in respect to these lines where you took the 67 per cent condition [fol. 1393] arbitrarily—in no other instance have you varied from your application of three per cent per year, have you?

A. On the transmission lines?

Q. On the transmission lines.

A. No, sir.

Q. Do I understand it to be your testimony, then, that the replacements of joints of pipe in these lines have not raised the per cent condition above that to be found by the application of three per cent a year?

A. Well, I don't know what the company might do from now on out in replacements and reconditioning; but at the time of the investigation the conditions that were observed I think are fairly reflected by the percentages we have given them. We have to arrive at some percentage, just as the company's engineers arrived at the percentage condition of the pipe in the lines.

Q. Here is what I am directing your attention to: You said that this 33-year life or 3 per cent a year contemplated the average span of years in service, taking into account only current maintenance, didn't you?

A. Yes, sir. Now, if current maintenance becomes deferred maintenance—when deferred maintenance becomes

replacements and reconditioning, it amounts to the same thing.

Q. You say that amounts to the same thing?

A. Yes.

Q. And do you then say that this three per cent a year takes into account replacements of joints of pipe in the line?

[fol. 1394] A. It does, if the pipe line has been allowed to deteriorate during that period to the extent that it is necessary to replace a pipe. There may be two or three replacments in the pipe line, and yet the pipe line go out in thirty-three years.

Q. You mean replacement of two or three joints, or two or three reconditioning jobs?

A. That is, there might be two or three reconditioning jobs.

Q. In which a substantial amount of new pipe would be put in?

A. Placed in, and still the line go out.

Mr. Bobbitt: May we have a little recess?

The Court: Yes, sir; it is about time for one. We will take a short recess, gentlemen.

Recess.

Q. Then, do I understand it to be your testimony, Mr. Elrod, that in the case of these lines that have been reconditioned, why the application of the three per cent a year still reflects your judgment as to the present per cent condition of the line?

A. Yes, sir; for instance, a 10-inch line that has been muchly discussed, it was reconditioned, and our judgment was that it would last thirty-three years, and we depreciated at the rate of three per cent.

Q. Then, that means that these lines, with simply ordinary maintenance, and not with reconditioning jobs, [fol. 1395] will last much less than thirty-three years, doesn't it?

A. I think that they will not last in those hot spots thirty-three years without some reconditioning.

Q. And that reconditioning may have to be done as often as two or three times in a thirty-three year period?

A. It might be.

Q. And at each time a substantial number of new joints of pipe put in?

A. Possibly.

Q. Turn to page 40. Do you know whether the line from Pescadito to Aguilares, the 8-inch lines, has been reconditioned?

A. Pescadito to Aguilares?

Q. That is the stretch of 39,149 feet of 8-inch pipe.

A. No; I don't. I don't believe that it has been reconditioned; but I don't know that it has or has not.

Q. Should it happen that about thirty per cent of that line was reconditioned in 1931, then your figures don't show that the reconditioning of that line has raised its per cent condition any, does it?

A. No.

Q. As a matter of fact, has the per cent condition of that line been raised any by this reconditioning job?

A. I didn't examine it.

Q. You didn't examine that line?

A. No, sir; not since our previous——

Q. Well, you have examined it since 1931, haven't you?

[fol. 1396] A. I examined it in 1932.

Q. If a reconditioning job was done in 1931 you have examined it since that reconditioning job?

A. Yes, sir; I didn't understand you.

Q. Do I understand you to say that that reconditioning has not raised the per cent condition of that line?

A. The condition of that line was given as 67 per cent, or 70 per cent at that time, and that was our judgment as to the condition of the pipe.

Q. And that, even though there had been reconditioned thirty per cent of the line?

A. Yes, sir.

Q. And that indicates that line, with just ordinary maintenance and without reconditioning, would last in service much less than thirty-three years, wouldn't it?

A. Yes, sir; much of those lines have lasted much less than thirty years. If I may explain——

Q. Now, is there necessary any explanation of the answer to the question I have asked you?

A. This is an explanation of the answer to your question.

Q. Are you about to read from some book?

A. Yes, sir.

Q. Well, I have not asked you for that, Mr. Elrod.

Mr. Bobbitt: If an explanation is necessary to complete the answer, he should be allowed to give it.

Mr. Coates: I am asking him for his knowledge, and not [fol. 1397] what is in that book.

The Court: Go ahead.

Q. Now, in your study of this property, this line Pescadito to Jennings was built to serve Laredo, wasn't it?

A. Pescadito to Jennings?

Q. To Jennings.

A. Yes, sir.

Q. And was included in your 1932 appraisal, wasn't it?

A. Yes, sir.

Q. And was used to serve Laredo in 1932, wasn't it?

A. I believe that it was at once time.

Q. And was used to serve Laredo in 1933, wasn't it?

A. From my personal knowledge, I don't know.

Q. You don't know. Well, it was in service when you inspected it in 1934, wasn't it?

A. Yes, sir.

Q. And flowing gas in the direction of Laredo, wasn't it?

A. Yes, sir; and leaking very badly.

Q. Now, a good section of that line was reconditioned in 1933, wasn't it?

A. Yes, sir.

Q. And where on this map were those reconditioning jobs done? Do you know where Mile post Number 30 is on that map?

A. It is close to the Check Meter up there on the red line that runs in a northeasterly direction.

Mr. Bobbitt: You mean in a northwesterly direction?

[fol. 1398] A. In a northwesterly direction. I beg your pardon.

Q. That is there are thirty mile posts,—One down here, and Thirty up there?

A. Yes, sir; One is at the lower point, and Thirty is up at the top point (indicating on map). The reconditioning in the northerly end of the line started at, judging from the ditch, Mile Post 18, pole 7 plus 15 feet, and ended at Mile Post 21, pole 1 plus 165 feet.

Mr. Coates: Read me the answer, please.

(Thereupon the Reporter read the last preceding answer.)

Q. All right. Where was the other reconditioned section?

A. In the southerly end, starting at Mile post 10 pole 19, I believe, and ending at Mile Post 14 pole 27.

Q. That reconditioning was done in 1933, wasn't it?

A. I presume so.

Q. And the reconditioning job had been completed when you went over it in February, 1934?

A. Yes, sir.

Q. Refer to your notes, or Mr. Heins' notes, and relate the condition that you found in February, 1934. How many leaks did you find between Mile Post 1 and Mile Post 15 in 1934?

Mr. Bobbitt: You mean go over that report again?

Mr. Coates: No; I mean for him to do just what I am asking him,—how many leaks he found in 1934 between Mile Post 1 and Mile Post 15.

[fol. 1399] Mr. Bobbitt: I thought they gave that the other day.

Mr. Coates: No; he mixed up 1933 and 1932, in order to give an impressive picture.

Mr. Bobbitt: That is a statement by you and not by the witness, isn't it?

Mr. Coates: Yes, sir; I will ask the Court to instruct the jury not to consider it.

The Court: I have told the jury repeatedly that they are not to consider statements by the lawyers as testimony.

Q. Do you understand what I am asking you?

A. I understand, Mr. Coates. I had testified from some little sheets of paper that I had taken from my notebook, and I thought I had placed them back in my pocket, but I find I didn't do so, and I am having difficulty in finding them. No, here they are.

Q. Isn't it a fact, as reflected by your testimony——

Mr. Bobbitt: Has he answered that question?

Q. Strike that question. Isn't it a fact, Mr. Elrod, that when you went over the line in February, 1934, that from Mile Post 1 to Mile Post 15 you did not find existing in the line any leak clamps, or any leaks in the line, except the one to which you have arrived; that is, at Pole 18, Mile Post 8, you have a notation of bad condition?

A. That is at Mile 8 and pole 14.

[fol. 1400] Q. Pole 14?

A. Yes.

Q. What did that bad condition consist of?

A. Condition on 13 side of coupling, good; other side, bad.

Q. What do you mean "bad"?

A. Well, the pipe was badly pitted.

Q. Was it leaking?

A. I couldn't tell.

Q. Is that the only bad spot that your notes show between 1 and 15—between Mile Posts 1 and 15, when you made your inspection in 1934?

A. I think so.

Q. Now, I believe, to refresh your memory, that you said that you found, or did you find in February, 1916, any leak clamps between Poles 15 and 16?

Mr. Bobbitt: 1916, Mr. Coates?

Q. No; between Mile Post 15 and 16.

Mr. Bobbitt: You asked him about 1916.

Mr. Coates: I am getting my tongue twisted up. Strike the entire question.

Q. In your inspection in February, 1934, did you find any leak clamps or leaks in the line between Mile Post 15 and Mile Post 16?

A. Yes, sir; there was a clamp at Mile Post 16 pole 27.

Q. All right; is that the only place?

A. Yes; between those.

[fol. 1401] Q. Now, how about Mile Post 16 and Mile Post 17?

A. There is a clamp and leak in two holes in Mile 16 between poles 2 and 3.

Q. How about between Mile Post 18 and Mile Post 22—this is in 1934?

A. A leak at Dresser coupling on Mile 16 between Poles 14 and 15.

Q. That is back in Mile Post 16?

A. Yes, sir, Mile 16. Mile 17, in a hot spot, five joints of pipe replaced.

Q. Has new pipe been put back in the line?

A. I don't know whether new pipe or not.

Q. Was it leaking in February, 1934?

A. No, sir. I believe that is all I have.

Q. How about in February, 1934, between 18 and 21—Mile Posts 18 and 21?

A. Between 18 and 21, there were no leaks. It was where the reconditioning began.

Q. Did you find leak clamps between 21 and 22 in 1934?

A. At Mile 21 pole 18 plus 15 feet, leak clamp.

Q. How about between 22 and 23?

A. Mile 23 pole 5, leak clamp; pole 9, plus 100 feet, leak clamp; pole 16 plus 30 feet, leak clamp; pole 19, plus 100 feet, leak clamp; pole 21 plus 75 feet, leak clamp.

Q. All right. How about from 24 to 27—mile post 24 to 27?

A. Nothing between 24 and 27.

[fol. 1402] Q. Now, as a matter of fact, didn't you find in 1934 that by far the major portion of this long list of leak clamps that you read out were in the two miles from Pescadito Junction in a southerly direction?

A. You mean they were within two miles of Pescadito?

Q. Yes. I don't care for you to go through all that again.

A. Seven miles there was quite a number of them—one, two, three, four, five.

Q. That is at Mile——

A. Between 23 and 24. That is seven miles south.

Q. I have already asked you about that?

A. Yes.

Q. You have already told that?

A. Yes.

[fol. 1403] Q. But I am talking about in those last four miles here, were not the major portion of the leak clamps that you found there?

A. There were a good many of them, yes, sir.

Q. Well, what percent of the total that you read out?

A. I haven't figured that out; I have not made a list of them.

Q. Now, did you investigate to determine whether these two reconditioning jobs were done in a workmanlike manner or not?

A. They seemed to be.

Q. I believe you testified, Mr. Elrod, that you knew of no engineering reason why the city gate line going into Laredo should be tapered at the city gate end?

A. I don't believe I said that Mr. Coates, if you will pardon me. I said I think I could see no reason for a twelve inch pipe at that point.

Q. I see.

A. I can see a reason for it being tapered.

Q. I see. If in 1932 you found a piece of property that had not been maintained but in 1933 you found that same piece of property had had a maintenance and reconditioning job on it, would you raise the per cent condition?

A. It depends upon circumstances. This thing of depreciation maintenance is a very much involved one.

Q. In the first place, can you answer my question?

A. No, not without explaining it.

[fol. 1404] Q. Can you give a "yes" or "no" answer and then explain it?

A. No.

Q. Well, let me ask you this, then: this meter house at the Home Ice Company, when you inspected it in 1932, you found it in a state of disrepair and needing paint, did you not?

A. It not only needed paint but it needed reconstruction; it was rusted around the bottom of the galvanized iron and the wood-work was rusted considerably. I think we gave it 18 per cent condition at that time.

Q. All right. When you came in there in 1933, what did you find?

A. I found that it had been painted, but the rust and rot was still there; it had been covered with paint.

Q. Well, did that tend to retard the loss of surface value?

A. Yes, sir.

Q. What per cent condition did you give that meter house in 1933?

A. 13 per cent, and I think it is worth no more than that.

Q. Well, were you wrong in 1932 or in 1933?

A. No, I was right both times, I think.

Q. You were right both times?

A. Yes, sir.

Q. Didn't you say the reason why you did not raise the per cent condition of the meter house was that you thought the cost of reconditioning it had been charged to operating expenses?

[fol. 1405] A. I don't think I did; if I did, why, I don't recall it.

Q. Well, is that the reason why you depreciated it further in spite of the fact that it had been painted?

A. Well, reconditioning and painting and so on should be charged to maintenance and goes into operations. It should

not be then put back into capital account by giving it a higher condition.

Q. Well, what relationship has the way the cost of increasing the per cent condition of the property is accounted for got to the actual condition of the property—you are not an accountant, are you?

A. No.

Q. The purpose of your investigation is to determine the depreciation actually existing on the property, isn't it?

A. Yes, sir.

Q. And if the present condition of that property has been raised by a maintenance job, don't you think that less accrued depreciation exists in that piece of property.

A. That is a question that has given—that has been given a great deal of thought, and I have come to the conclusion after a good many years of experience that it is unfair to the public—that is, the people who pay rates—to pay for maintaining parts or elements of property and then increase—that is, giving it a rate of depreciation also then because it has been maintained, but that its average life has not been lengthened the higher value given it. I think that depreciation is largely a matter of accounting and when it comes——

[fol. 1406] Q. Well, is per cent condition a matter of accounting or a matter of accrued depreciation in the property reflecting that in the appraisal?

A. Yes, but I think it is necessary to do that.

Q. Well, don't you think where a piece of property has had its condition bettered by a maintenance job that it ought to have a higher per cent condition?

A. I just can't see it that way. I think that when it has two other operations——

Mr. Coates: Now, just a moment. If the Court please——

The Court: You answered the question when you said you could not see it that way. The rest is stricken.

Q. Now, as a matter of fact, Mr. Elrod, there were no special test holes dug to inspect the transmission line between Pescadito and Carolina-Tex?

A. Yes, sir.

Q. When?

A. In February of 1932.

Q. In February of 1932, under whose direction?

A. Mr. Heins, the city engineer, took his man, Marcus—I

don't know his other name—or rather sent them to prepare holes for us to inspect the pipe and they had prepared the holes when I arrived with Mr. Heins and we went over the line.

Q. How many of those holes were specially dug for inspection purposes between Pescadito and Carolina-Tex?

[fol. 1407] A. I don't know. You questioned me at length the last time I was on the stand and I told you I could not tell. I made no record of them. I was just trying to get at a general idea to support in my own mind the investigations that Mr. Neff had made previously or rather to see whether Mr. Neff was right or not—to check him up.

Q. As a matter of fact, didn't you testify before the Railroad Commission that no special test holes were dug between Pescadito and Carolina-Tex?

A. I don't remember that I did. I have got a note here in my book to the effect that on Thursday, the week of the 28th of February—that was in March—it was the third day of March——

Mr. Lange: What year?

A. 1932—that I was out over that line to Carolina-Tex with Mr. Heins.

Q. Didn't you testify before the Railroad Commission that only about seven out of twelve special test holes were dug on the complete Carolina-Tex to Laredo line, and those were all between Pescadito and Laredo?

A. I don't recall that I did. If I did, I subscribe to it.

Q. If you did, why you subscribe to it?

A. Yes, sir.

Q. Your recollection then——

A. Was better then than now.

Q. Was better then than it is now?

A. Yes, sir.

[fol. 1408] Q. Now, at the time you were inspecting these lines in 1932, there had been quite a flood in the Laredo area, had there not?

A. I don't recall. Yes, there had been—yes, there had been.

Q. And you inspected these lines at a good many points in the low spots where the running water had exposed the line, didn't you?

A. Just pardon me a second until I get that (witness refers to memorandum book). I was in Laredo in Septem-

ber, 1932. I don't think I made any inspection at the time of the flood, which seemed to me—do you know what period of the year those floods were—were they around July?

Q. No, I don't. All I know is that it washed out a bridge.

Mr. Coates: When was it, do you know?

Mr. Lange: I think it was in September.

A. I didn't make any inspection at that time of the transmission line.

Q. You didn't?

A. No, sir.

The Court: What time do you refer to when you say you did not make an inspection?

A. It was in September, '32.

Q. Well, did you make any subsequent to that time?

A. They have all been made subsequent to that time.

Q. Subsequent to September, 1932?

A. Yes, sir.

[fol. 1409] Q. And do you recall that the line had been exposed in a good many points by running water in low spots?

A. Not recent running water. The line was exposed from place to place by erosion, dry arroyos, and for various and sundry other reasons, such as holes having been dug along them.

Q. Well, I am asking you about exposure from flood waters. Now, at those low points where there had been erosion and exposure of the line you made inspections and worked all that into your present condition, did you?

A. Well, that of course had a bearing on the general concept that I got of the line. I did not make a percentage study—that is I did not go to a pipe and say—or to a place and say "the percentage here is so much" or "the percentage here is so much," and then add those up and strike an average. I just went over the line and got just general information, a mind full of what I saw, and used my best judgment as to arriving at what the per cent consition should be given that pipe in view of its age and the soil it was in and so forth.

Q. But with the two inspections that you have named, you put down 67 per cent. That always worked out mathematically three times the number of years since the line was first installed, didn't it?

A. Yes, sir.

Q. That is the way it worked out mathematically, wasn't it, Mr. Elrod?

A. Yes, that is the way it worked out mathematically.

[fol. 1410] Q. Now, do you use "working cash" to mean working capital?

A. Yes, sir.

Q. Do you subscribe to the proposition that the amount of working capital included in an engineering appraisal of property of this sort should equal in amount the amount of free capital used in a business and actually employed in the business by the managing officials?

A. I subscribe to the proposition that one-eighth of the total operating expenses, less gas purchases, as in the case of purchases made from an affiliated company or from themselves is sufficient as being a rather good allowance—I beg your pardon—provision.

Q. Do I take your answer to mean that you do not subscribe to the proposition I have outlined to you?

A. I do not subscribe to it.

Q. And do you subscribe to the proposition that the amount of working capital in an engineering appraisal of this sort should be the amount of free cash capital held in the business and used and employed in it by the managing officials and not available for investments and earning a return in other ventures?

[fol. 1411] A. No, unless that amount happens to be an eighth of the forty-five days.

Q. Unless it happens to be an eighth of the operating expenses?

A. Forty-five days of the operating expenses, in other words; I think that is enough.

Q. Now, do you take into account in computing cash working capital any minimum bank balances kept on hand by the Company?

A. No, I think that is a matter that is purely arbitrary with them.

Q. Purely arbitrary, or purely discretionary?

A. Discretionary is better, yes. I thank you.

Q. And even if they, in their judgment, in the management of this property feel it necessary to keep on hand for the use of the property a minimum bank balance, then you don't think that it ought to be taken into account in computing working capital?

A. No, I think Consulting Engineers performing the duties that I have been called upon to perform here have to have some rule that is backed up by experience or what has been provided in other cases, to guide them, and take that as the guide.

Q. You mean some formula like this forty-five days operating——

A. Yes, I think that is rather generally used, and I think [fol. 1412] from a study of the situation that it is sufficient, and that is why I have used it.

Q. Well, now what study of the situation have you made?

A. Well, the Company has to pay its employes, I presume, and has to take care of the ordinary expenses from month to month, and the average expense for a year—or rather for a month is a twelfth of that for the year, and if you will allow them a fifteen day leeway for such things as delayed payments, and so on, that that is sufficient—that is, the total operating expenses for the month, which is a twelfth of the year, plus fifteen days additional, seems to me, from the standpoint of engineering judgment should be enough; and that is the amount I have allowed, and that is the way I have gotten at it.

Q. Do you take into account prepaid items?

A. No, sir.

Q. Neither prepaid items nor minimum bank balances actually kept on hand by the Company?

A. No, sir.

Q. Do you take into account the amount of accounts receivable?

A. Only as reflected by revenues. If there were not sufficient revenues to pay operating expenses, I would be inclined to allow them more working capital.

Q. That is, if they were not sufficient to pay operating expenses, then you would allow more working capital?

[fol. 1413] A. Yes, sir.

Q. Well, now, before the Railroad Commission you thought that at least sixty days operating expenses ought to be allowed on account of the practice of this Company, of continuous meter reading?

A. Yes.

Q. Do you know whether continuous meter reading is still in effect in Laredo?

A. I think it is; I have no reason to think it is not. But I have changed my mind about the sixty days.

Q. You have changed your mind in the last year about the sixty days?

A. Yes, sir.

Q. But not about the continuous meter reading?

A. No, sir, I think the matter of continuous meter reading is rather generally established among gas companies and other utilities. I just have taken it for granted that they are continuing in that.

Q. Now, you have said, I believe, that you have had no experience in operating a property of this sort?

A. No, not of natural gas.

Q. And do you know of your own personal knowledge of any company of this character which keeps its cash paid out down to the point where it has got no more cash on hand after it meets its monthly payroll than an additional fifteen days of operating expenses?

[fol. 1414] The Witness: Will you read that question to me, please, Mr. Reporter?

(Thereupon the Reporter read the last preceding question, as follows: "Q. And do you know of your own personal knowledge of any company of this character which keeps its cash paid out down to the point where it has got no more cash on hand after it meets its monthly payroll than an additional fifteen days of operating expenses?")

A. No, I don't.

Q. You say you don't know of any such company?

A. I don't know of any such company.

Q. Well, as a matter of fact, do you know about the operating practices of gas utilities in that respect?

A. I do not; I am not familiar with the——

Q. And do you know——

Mr. Bobbitt: What is that?

Mr. Coates: Did I interrupt?

Mr. Bobbitt: You started another question while he was still answering.

Mr. Coates: All right.

A. I testified originally, I believe, that I had never had any experience with the operation of a gas company, and I haven't had any occasion to go into the operations of this company.

Q. And don't you think that the best measure of the amount of cash working capital required is the amount of [fol. 1415] cash working capital which the officer of the company in its operation feel is actually needed and required to be held on hand in the business?

A. Well, I don't know; there might be exceptions to that, where the company would, inasmuch as the working cash is an addition to the amount upon which they are entitled to earn a return, might through that element that is more or less predominant in human beings—greed—might induce them to want a little bit more than was actually necessary for them to have. Now, I am not implying that your company would do that; but I have thought that if they were limited to a month and a half's operations that they ought to be able to get along. And that is the theory that I have operated under, and that is the reason that I have allowed this much; and if it is wrong, I am wrong.

Q. If they hold it in the business—that is, if they hold an amount of money there in the business—a reservoir of cash, of cash working capital, then that money being held in the business is not available for earning a return elsewhere, is it?

A. Well, the amount that is provided in an estimate such as this for working cash is added to the structural costs and structural overheads as part of the sum upon which the company is entitled to earn and the rates are based, and as I [fol. 1416] said, presuming——

Q. I don't believe you understood my question, Mr. Elrod.

Mr. Coates: Will you read it, Mr. Reporter?

(Thereupon the Reporter read the last preceding question, as follows: "Q. If they hold it in the business—that is, if they hold an amount of money there in the business—a reservoir of cash, of cash working capital, then that money being held in the business is not available for earning a return elsewhere, is it?")

A. No, and I——

Mr. Bobbitt: What is your answer? I say go ahead and answer it.

A. I was going to add that——

Q. Well, now, have you answered the question, or——

A. I have answered your question; that is why I stopped.

But I intended to add a little gratuitous testimony and decided I wouldn't.

The Court: Mr. Coates, the witness states that he feels very ill. So we will stop here. Can you finish with him this afternoon if we let him rest a little, or had we better recess?

Mr. Coates: I believe we had better recess.

The Court: We will recess until nine o'clock in the morning, gentlemen.

[fol. 1417] The Witness: Thank you, sir.

(Thereupon, at 4:55 o'clock p. m., a recess was taken until 9:00 o'clock a. m., Tuesday, March 26, 1934.)

[fol. 1418] Tuesday, March 27, 1934

Morning Session, 9:00 a. m.

Henry E. Elrod, a witness for Plaintiffs' resumed his testimony and testified as follows:

Cross-examination resumed.

Questions by Mr. Coates:

Q. Mr. Elrod, during the time since you have been on the stand have you determined whether you apportioned 3.78 per cent on the line from Pescadito to Laredo to these markets, Mirando City, Oilton, and so forth?

A. I did apportion that part out. I think, however, after my attention has been called to the situation on the stand yesterday afternoon, that it would be proper to apply that proportion to that portion of the line from Aguilares Junction which is used on the map as being 13.5 miles.

Q. And to increase your valuation of the transmission lines from Laredo to Aguilares by 3.78 per cent?

A. Oh, I don't know that it would be just exactly that. I will make the calculations and present them. I was just too sick to do it last night.

Q. But you will make those calculations?

A. I think the company is entitled to that—to have that changed.

[fol. 1419] Q. And at the same time can you make the calculations which would show the amount by which your valuation would be increased?

A. I will make a supplemental sheet carrying that through.

Q. Well, on that supplemental sheet will you likewise calculate the amount by which your valuation would be increased if you had used the Workmen's Compensation rate of $6.18 instead of the one that you used?

A. I will make a promise—well, I will make the proper adjustment; I will make the calculation to show the proper adjustment.

Q. Well, will you make it to show the Workmen's Compensation rate of $6.18 instead of the two dollars and something that you used?

A. As it is properly applied, yes, I will make the calculation.

Q. Well, I am asking you will you make the calculation to show that on that sheet, Mr. Elrod?

A. I will show on the sheet what is necessary to be shown to make the correction for the failure to have used the proper figure, and I will have to look at my work sheets and find just what I did use.

Q. And will you likewise show the increase which would result if you used five per cent for engineering?

A. I can make a calculation as to what it would be, but I don't believe that I would be willing to allow the increase.

Q. You would be willing to make the calculation, wouldn't you?

[fol. 1420] A. Yes, sir.

The Court: I understand that is all you are asking him to do, is to make the calculations like you want them made?

Mr. Coates: Yes. I am not asking him to subscribe to it.

The Court: I want the witness to understand what is wanted.

Mr. Bobbitt: I don't know how much calculating the company's attorney wants the witness to make to establish their theories.

The Court: They are telling him now, Mr. Bobbitt, what they want.

Mr. Bobbitt: Well, I don't know how much work it will entail.

The Court: Well, if it is too much he won't have it to do.

Q. Now, the volume of gas that you used in apportioning this transmission likewise includes approximately twenty-

seven million feet of gas that came up from Jennings, does it not?

A. I just don't know the detail.

Q. Mr. Elrod, didn't you ascertain what was in these figures that you employed in your apportionment factors?

A. Yes, sir. Those figures were given me by the Auditor. I have them here.

Q. Well, I know, but after you got them didn't you find [fol. 1421] out what was in them?

A. I will read you, if you please, the figures that I have upon which I base my values.

Q. Now, those are the same figures you read to me yesterday?

A. Yes, sir.

Q. And do they show whether the twenty-seven million feet of gas from the Jennings field in 1933 is included in those figures or not?

A. No, sir; they do not.

Q. Do you have any way of knowing?

A. No, sir.

Q. Do these figures purport to show in the same way 465,000 M. C. F., the total volume of gas delivered during 1933 in the Laredo sector?

A. I think they do, but the source does not show.

Q. So that if the figure of 465,000 M. C. F. does include the gas which came up from Jennings during that period you don't know how you handled that in your apportionment factors, do you?

A. I paid no attention to it.

Q. Paid no attention to it?

A. That is, I didn't have any such figure.

Q. Now, did you include in Plaintiff's Exhibit 9 the Carolina-Tex. gathering system?

A. No, sir.

Q. And you didn't include the Jennings-Pescadito line?

[fol. 1422] A. No.

Q. Nor any gathering lines in the West Jennings field?

A. No, sir.

Q. Does Plaintiffs' Exhibit No. 9 purport to constitute an appraisal of the property used to serve Laredo?

A. Used and necessary to be used to serve Laredo.

Q. Used and necessary to serve, but it does not purport to constitute an appraisal of all the property used to serve Laredo during 1933?

A. No.

Q. And if they did not have that gathering system over in the Carolina-Tex. field how would the gas get over to the transmission line?—it couldn't jump over there?

A. No, it could not get there unless the gathering system were there.

Q. And in the same way there is no way known to science by which gas could jump up from the Jennings field to Pescadito Junction?

A. No. I readily admit that the gathering lines are necessary.

Mr. Coates: I believe that is all, Mr. Elrod.

Redirect examination

Questions by Mr. Lange:

Q. Mr. Elrod, in your Cross Examination yesterday you were asked whether or not you had included going value as a separate item in computing your Exhibit 9?

[fol. 1423] A. Yes, sir.

Q. You said you did not. I will ask you whether or not you gave the item going value any consideration in the preparation of that exhibit?

A. Yes. I believe I testified previously that I had considered it in the appraisal; I had appraised the property as a going entity as against properties—that is, a going entity established and with a business attached as against one not so advanced—that is, one that was not established and didn't have a business connected.

Q. Now, I will ask you whether or not in giving that item consideration you took into consideration the amount of structural overheads allowed or provided for?

A. Yes. When they were taken care of, that took care of the expense preliminary to operations.

Q. Mr. Elrod, in the light of your experience, viewing the history of the company, what, in your opinion, would be a sufficient amount to be set aside for annual depreciation of these properties?

Mr. Coates: To which we object for all the reasons for which we objected to the witness' qualifications in the first place at the time Plaintiff's Exhibit 9 was introduced.

The Court: Isn't this repetition?

Mr. Lange: No, sir.

The Court: Hasn't he prepared an exhibit which shows that?

[fol. 1424] Mr. Lange: No, sir.

The Court: I thought he had.

Mr. Lange: No, there has been no exhibit on that.

Mr. Coates: But our objection goes to his qualifications.

The Court: Read the question, Mr. Reporter.

(Thereupon the Reporter read as follows: "Q. Mr. Elrod, in the light of your experience, viewing the history of the company, what, in your opinion, would be a sufficient amount to be set aside for annual depreciation of these properties?")

The Court. I don't think the question is qualified sufficiently.

Mr. Lange: I will withdraw that question.

Q. Mr. Elrod, you have made an appraisal of these properties?

A. Yes.

Q. Set forth in your Exhibit 9?

A. Yes, sir.

Q. In connection with the making of that appraisal you have inspected the properties?

A. Yes, sir.

Q. And further in connection with the making of that appraisal you also studied the history of the properties?

A. Yes, sir.

Q. And in compiling this appraisal of the properties did you have occasion to look into the future needs of the property as to the requirements for future depreciation?

A. Yes, I had occasion to make a study of depreciation [fol. 1425] as connected with these particular properties prior to the Railroad Commission hearing and to study the accounting records in connection with depreciation and to arrive at a conclusion at that time, based on my engineering experience, as to what amount of depreciation would be necessary for the future—that is, what annual allowance, or provision, rather, should be made for future depreciation.

Q. Have you arrived at an opinion, and what in your opinion is a proper and necessary allowance for future annual depreciation?

Mr. Coates: We renew our objection, if the Court please, the same objection which we made to his qualifications and to his testimony at the time Plaintiffs' Exhibit No. 9 was introduced, which went to his qualifications likewise and the findings of the Railroad Commission and stated numerous grounds.

The Court: Does the witness say he based it on all the things that he has undertaken?

Mr. Lange: Yes, sir.

The Court: I overrule the objection.

Mr. Coates: Note the exception.

A. My opinion at that time was that two per cent was adequate. I think that a maximum of three per cent, or rather an amount not in excess of three per cent should be provided.

Q. That is your opinion at this time?

A. Yes.

[fol. 1426] The Court: I want to know, three per cent of what?

A. Three per cent of the appraised costs of the properties.

The Court: As you appraised it or as somebody else appraised it?

A. As may be fixed or as was fixed by appraisal.

The Court: Whose appraisal? I want you to say whether yours or Mr. Greene's or somebody else's.

A. The Railroad Commission, I believe, established a base and from that base we have taken away some of the properties that were included at that time and have made a new base or found a new value, and it is upon that new value that I would base my rate of return.

Mr. Coates: Reproduction cost new, or reproduction cost new less depreciation?

A. Cost new.

Q. I will ask you as set forth in your appraisal?

Mr. Coates: We object.

The Court: Are you objecting to the Court's inquiry?

Mr. Coates: No, sir.

The Court: You have a right to.

Mr. Coates: I know, but I am not.

The Court: I wanted to get the record clear on that.

A. Did you ask me a question?

[fol. 1427] The Court: No.

A. Is there a question before me at this time?

The Court: Will you all pardon me? Leave it out of the record if you want to. I am confused. Your maximum of three per cent that you would allow for depreciation is based on a figure found by you, I understand now?

A. Yes, sir.

The Court: Since the fair value of the property was fixed by the Railroad Commission in their hearing?

A. Yes, sir.

The Court: Now, where is the figure of fair value as found by you in the evidence?

Mr. Lange: I will ask the witness to refer to his Exhibit 9.

A. That is given on page C of Exhibit 9.

Mr. Coates: What figure?

A. The total cost new of the depreciable property. From that, of course, would have to be deducted land, which does not depreciate, and rights of way, which do not depreciate, and materials and supplies and other such working cash.

The Court: Now, is there any objection by anybody to what I asked?

Mr. Coates: No. We invite the Court to ask any questions he desires.

[fol. 1428] A. If I may make a little further explanation——

The Court: All right.

Mr. Coates: Of course, we are objecting—I mean our objection to the witness' qualification is not to be taken as having been waived. We do not object to the Court's asking the witness questions.

The Court: In order that there may be no misunderstanding, I am not trying to conduct the case, but I want to know what he is talking about, so I will get his testimony.

A. The object of depreciation, or provision for annual reserve to take care of depreciation, which is the loss of anything by a practical means, as rot, rust, and so on, is to maintain the integrity of the original investment. If the original investment is arrived at as being the figure that I have just quoted, less items that do not depreciate, then the per cent that is provided only bears upon that figure to provide a fund that will restore the items of property in

that original figure, as they go out of existence, at their original cost.

The Court: Now, may I see the attorneys here a moment?

(Thereupon counsel for plaintiffs and defendant conferred with the Court, out of hearing of the jury.)

The Court: Mr. Elrod, will you read into the record the figure you are talking about shown there in your exhibit on [fol. 1429] which you calculate the three per cent you are talking about? Read that exact figure.

A. The exact figure is $891,616.00, less working cash, materials and supplies.

The Court: Well, state it exactly; I mean exactly the net figure.

A. I haven't the exact net figure. I can calculate it.

The Court: Well, that is really what I would like to know.

A. Maybe I have it here.

The Court: I want to get that exact figure.

Mr. Coates: I believe it would be worth while at this time to give the witness there or four or five minutes to get that.

The Court: All right. I could calculate it, but I believe it would be better to let him calculate it.

(Recess.)

[fol. 1430] The Court: Now, Mr. Elrod, have you located that exact net figure you were asked for, and you said you would make the calculation on?

A. Yes, the net depreciation base is $829,559. It must be borne in mind, however, that there are corrections to be made in that, and that the three per cent maximum rate of depreciation must apply on any figure that is fixed by this Court or in this court.

The Court: We are not talking about that. We are talking about what you did.

A. Yes.

The Court: That is the exact figure you found?

A. That is the exact figure I found.

The Court: All right, gentlemen, that is all I wanted.

A. That is subject to the corrections I have agreed to make.

The Court: Go ahead, gentlemen.

Questions by Mr. Lange:

Q. In connection with the preparation of this appraisal and your study of the history of this company and its properties and its financial history, I will ask you whether you had occasion to look into the financial needs of this company in the past, and what in your opinion would be the financial needs of this company in the future as a fair rate of return on its properties as you computed them in this [fol. 1431] appraisal?

Mr. Coates: The same objection, if the Court please,—and no proper predicate laid showing that this witness has ever operated any such properties, that he has ever engaged in any activities which would show his familiarity with the rate of return required to produce a free flow of capital to maintain the credit of the company and enable it to secure the money to properly exercise its public duty; and because no proper predicate has been laid, and he is not shown to be qualified.

The Court: Gentlemen of the Jury, will you pass on into the jury-room.

(Jury is retired.)

Mr. Coates: And the same objection and each and all of the grounds thereof which the defendant made to the introduction of Plaintiffs' Exhibit 9, which objections are here adopted and leveled at this testimony—the question of counsel and the answer of the witness sought to be elicited.

The Court: Mr. Reporter, read the question which Mr. Lange asked just before the jury was retired.

(Thereupon the Reporter read the last preceding question, as follows: "Q. In connection with the preparation of this appraisal and your study of the history of this company and its properties and its financial history, I will ask you whether you had occasion to look into the financial needs of [fol. 1432] this company in the past, and what in your opinion would be the financial needs of this company in the future as a fair rate of return on its properties as you computed them in this appraisal?")

The Court: Don't take this for the record, Mr. Reporter.

(Discussion off the record.)

The Court: This is admissible on rebuttal.

Mr. Coates: We are objecting to the qualification of the witness.

The Court: Bring the jury back.

Mr. Coates: The objection is overruled?

The Court: Yes, sir.

Mr. Coates: Note our exception.

The Court: Yes, sir.

(The jury was thereupon returned to the jury box.)

Mr. Lange: Read the question, please, Mr. Reporter.

(Thereupon the Reporter read the last preceding question, as follows: "Q. In connection with the preparation of this appraisal and your study of the history of this company and its properties and its financial history, I will ask you whether you had occasion to look into the financial needs of this company in the past, and what in your opinion would be the financial needs of this company in the future as a fair rate of return on its properties as you computed them in this appraisal?")

[fol. 1433] Mr. Coates: Our objections go to all this line of testimony, without the necessity of repeating them.

The Court: Yes; all right.

A. I believe I testified in the Railroad Commission hearing——

The Court: Just testify here.

A. I believe that seven per cent on the value of the properties as found by me is an adequate return for the company.

Q. That is before the allowance for depreciation?

A. That is before, and does not include the allowance for depreciation,—the allowance for depreciation to be in addition to the seven per cent.

Q. And is, as you testified, in your opinion, three per cent?

A. Yes, or a total of three per cent.

Q. Or a maximum of three?

A. I think that is a high figure.

Q. Or a total of the two of ten per cent?

A. Yes.

Q. As a maximum figure?

A. Yes.

Mr. Lange: That is all.
The Court: Any questions, Mr. Coates?
Mr. Coates: Yes, sir.

[fol. 1434] Recross-examination.

Questions by Mr. Coates:

Q. Seven per cent of what, Mr. Elrod?

The Court: I believe he answered that a while ago. He said it was of the fair valuation as found by him.

Q. Well, what is the fair valuation found by you?

The Court: That is all right.

A. $690,261.00, which is the depreciated value of the properties as of December 31, 1933, as found by me.

Q. Now, can you compute the total requirements for depreciation reserve and return as estimated by you—the total annual requirements?

A. I haven't done so. I will.

Q. Can you?

The Court: Just a minute, Gentlemen. Gentlemen of the Jury, I am going to retire you for just a moment again.

(Thereupon the jury was retired.)

The Court: Now, I want to get my own mind clear about this, and I am not complaining of the lawyers on either side; I am complaining about myself. I don't understand, Mr. Elrod, why you compute the three per cent on $829,559.00 and why seven per cent on $690,261.00?

[fol. 1435] The Witness: Well, I can readily understand your confusion.

The Court: Yes, sir, that is what I want to get at. I am confused about it.

Mr. Lange: Yes, sir, we want the Court to understand it.

The Witness: This matter of depreciation is a very deep one, and there are very few people, according to my opinion, that do really understand all there is to know about it; but if you have a utility and it cost you so much money, say, a million dollars, and you know that the utility is going to depreciate in twenty years—that is, the life of the utility is twenty years—of course, utilities go right on and on and on, but there are elements of property that are replaced from time to time, and you find the average life of the property,

and we set up five per cent—if it is twenty years we set up the five per cent rate of depreciation to restore the cost new of the property as it goes out of existence; in other words, any item of property which goes out of use through wear and tear and rust, or obsolescence, or what not, this fund of five per cent is available to replace that item. If it costs more than the five per cent, why, the additional amount is charged to capital account, the balance is charged from the [fol. 1436] depreciation fund. The properties should be always worth the difference of cost new and the depreciated cost, and there should be in the reserve a fund that equals the balance. The rate of return is applied upon the depreciated balance, because the company has the depreciation reserve to use as it pleases; they may use it in the plant to restore or improve, or what not, or they may invest it in other properties,—just so that the values set up may be available for keeping intact the original property; and as the properties depreciate and as new elements are added to take the place of depreciated properties, there will be a balance struck finally which will be fairly even throughout the rest of the history of the plant, replaced items being offset by replacing items; and there should not be much, if any, change annually in the rate base—that is, in the base—the depreciated base upon which a return may be computed.

Mr. Lange: What the Court particularly directed your attention to is that you use the one figure for the three per cent depreciation, and the other for the seven per cent. The Court didn't have that clearly in mind.

The Witness: Yes. Well, I was trying to explain that the depreciation rate or the rate to provide an annual reserve for maintaining the integrity of the investment in the prop- [fol. 1437] erty was applicable to the original cost of the property, while the base for the yearly rate of return is applicable upon the depreciated properties or the difference between the cost new and the depreciation reserve.

The Court: I understand thoroughly now what he says his reasons are; whether I agree with him or not is immaterial; but I did want to get his reasons, and why he was doing that.

Mr. Lange: Yes, does the Court get the reasons, now?

The Court: I have got his reasons.

Mr. Lange: That is what I mean, yes.

The Court: Bring in the jury.

(The jury was thereupon returned to the jury-box.)

[fol. 1438] Q. Mr. Elrod, in accordance with your testimony as to rates of return and reserve accrual, what would be, according to your testimony and in your opinion, the total annual requirements for reserve accruals and return?

A. On the bases that have just been quoted, without adjustments that have been asked for, it will amount to $73,205.00.

Q. And with the corrections that you have been asked to make it will amount to some more than that, will it not?

A. Presumably.

Q. Well, presumably—you are going to add more value to that transmission line, aren't you?

A. Yes.

Q. And you are going to compute three per cent on that, aren't you?

A. I think so.

Q. Well, don't you know whether you will or not?

A. I am going to figure whatever those figures are.

The Court: Let's just wait until he gets his figures up on that, gentlemen; that is just in order to save time.

Q. All right.

A. If you will pardon me, I would like to just state that I am not quoting these figures, because I could not burden my mind with all the figures in the report, and when Mr. Coates asks me if it is such and such a thing, I can not say definitely it is that amount, until I have the paper before me from which I can read.

Q. All right, sir. Mr. Elrod, yesterday you were asked the [fol. 1439] following questions, and didn't you give the following answer: "Q. Have you included going value in the appraisal of these properties, as shown by Plaintiff's Exhibit 9? Answer: No, sir." Was that your testimony yesterday?

A. Will you read me the question preceding that one?

Q. Yes. "Question: Do I understand you to testify that you had included going value in Plaintiff's Exhibit 9? Answer: I have not included it as a separate item. Question: Have you included going value in the appraisal of these properties, as shown by Plaintiff's Exhibit 9? Answer: No, sir."

A. Well, I misunderstood your question, and what I intended to convey was that I had not included it as a separate item in that appraisal.

Q. Well, where is it? Point it out in Exhibit No. 9—what page does it appear on?

A. It does not appear on any page and does not appear except as an intangible thing, connected with and indistinguishable from the properties, and is the value in a utility that comes from the fact that the utility is established and is going and has business connected, as against a similar property that is not so advanced.

Q. How much is it?

A. I have not arrived at any figure for it.

Q. Do you know whether it is One Dollar?

A. No.

Q. Do you know whether it is Fifty Cents?

[fol. 1440] A. No.

Q. Well, do you know whether it is more than fifty cents?

A. No, I have not arrived at any value for it.

Q. Have you appraised it?

A. No, not except——

Q. Well, how do you know it is there, if you have not appraised it?

Mr. Bobbitt: The witness had not finished answering the question.

The Court: I think it answered it and started to volunteer some information. If Yes, or No means an answer, then he has answered it.

Mr. Lange: In connection with the answer, he was qualifying his answer. Except—He said "excepting."

The Court: All right, read what he said, Mr. Reporter.

(Reporter reads answer: No, not except——")

Mr. Coates: I do not want to and won't be discourteous to this witness, but I don't want him to volunteer.

The Court: I know that; we will let him finish what he started to say.

Q. All right, Mr. Elrod; except what?

A. Except that I had appraised the property, as previously testified, as a going entity, with business attached, as against one not so advanced. In other words, if the property had had no business attached and no establishment effected, I would have appraised the property as junk.

[fol. 1441] Q. As Junk? Well, how much would you have appraised them for, as junk?

A. I would have appraised them at the cost of the properties, less the cost of taking them up and salvaging them for whatever could be had for them.

Q. Well, have you in your mind any figure as to what that would be?

A. No.

Q. What the junk value is? I am trying to pin down and get the dollars of going value you have allowed.

A. I have not made any such estimate of dollars for the going value.

Q. Well, you say you can not find it in here on any page, and you can not state the number of dollars that it is?

A. That is correct.

Q. And yet you say it is in here, do you?

A. That is correct.

Q. Well, how is one picking up this exhibit to know where it is, and how much it is?

A. From my statement that the properties were valued as a going concern; that is, as a going entity, with business attached.

Q. All right. Now on yesterday, Mr. Elrod, didn't you testify that your direct structural costs constitute the prices of material plus the costs of installation?

A. Yes.

Q. And that the prices of material that you used were based on manufacturers' quotations and catalogs?

[fol. 1442] A. Yes.

Q. And that the costs of installation included the labor of hauling and the cost of hauling, and the cost of ditching, and so forth?

A. Yes.

Q. Now where, in any one of those elements going to make up the direct structural costs, is anything added in for going value?

A. Well, when those properties are put into the ground, assembled and pipes cut, fitted and buried, unless they are used and usable in a going concern with business attached, they have no value, other than junk value, because they have to be taken up, and the cost of taking them up and uncovering them and salvaging them is the measure of junk value. Now, the cost of going concern can get into a company's books only in two ways——

Q. Now, wait a minute. Read the question, because I think you are getting on to something that is not responsive.

(The following question is read: "Now where, in any one of those elements going to make up the direct structural costs, is anything added in for going value?")

Mr. Bobbitt: We submit, if the Court please; he has asked him that, and he is trying to tell him.

The Court: Well, he is waiting for him to tell him.

Mr. Bobbitt: No, he is trying to stop him.

Mr. Coates: What was his last sentence there; read it and let's see if that is responsive.

[fol. 1443] (Whereupon the following is read: "Now, the cost of going concern can get into a company's books in only two ways——")

Q. Now, Mr. Elrod, I am not asking you about the company's books but about Plaintiff's Exhibit 9, and am directing your attention to the direct structural costs in the exhibit, and asking you where in those direct structural costs, which you say constitute the costs of material and costs of installation, is this item of going value?

A. I believe it would be impossible for me to tell you unless I can refer to the matter of the operations of the company, because——

Mr. Bobbitt: Now, we submit, if the Court please, he is asking about those elements and how he gets the going value hooked up with those elements, and this witness is trying to tell him.

The Court: Yes he is trying to answer, but you are the man who is stopping the witness this time, Mr. Bobbitt, and not Mr. Coates.

Mr. Bobbitt: No, I am trying to stop Mr. Coates from stopping him.

The Court: Mr. Coates had not objected yet.

Mr. Bobbitt: If the reporter will read that back there.

The Court: Yes, he tried to stop him or make an objection back yonder some little bit; there was some objection then but not at this point.

Q. I will withdraw the question and start over. Mr. El-
[fol. 1444] rod, I am now directing your attention to this volume which has been marked for identification Plaintiff's Exhibit 9. You are familiar with it?

A. Yes.

Q. You made it?

A. Yes.

Q. In that volume, on page B you show what you had termed the direct construction costs of the transmission system property and the distribution system property, do you not?

A. Yes.

Q. Which is reflected—that is, these direct construction costs are reflected on page B of Plaintiff's Exhibit No. 9, by the total figure, cost new, of $897,471.00. Is that correct?

A. Yes.

Q. And by cost new less depreciation of $686,923.00.

A. Yes.

Q. Now, that makes up the total of the direct structural costs which you have said include the costs of material and the costs of installation of this property, as shown by its inventory?

A. Yes.

Q. Now then, I asked you where, in any of these direct structural costs represented by the figures that I have pointed out, is any going value?

A. I don't believe I can answer that question directly, or direct your attention directly to where any such item is, [fol. 1445] without our understanding each other as to what going concern value is. My conception of going concern value is the value that attaches to a business as being established, and going, doing business with customers attached; the cost of that or the sacrifices made to produce that condition, such as the training of a personnel, the assembling of records and getting the people in a receptive mood to take the commodities of the utility——

Q. Well, are you through?

A. No. And these items are proper charges to capital account. If they are not charged to capital account, they are charged, if they are charged at all, to operations. They are not charged to capital account, so far as I can find. If they have been charged to operations, they have been taken care of or it doesn't matter whether they have been taken care of or not.

Q. But I am talking about Plaintiff's Exhibit 9. Now, the direct construction costs are your engineering estimates of the cost of purchasing and installing and bringing into a completely constructed property, the inert physical elements of this property, are they not?

A. Yes.

Q. Now then, in those costs and in those dollar figures of $897,471.00 cost new, and $686,923.00 cost new less depreciation, is there any element of going value or does that constitute costs of material as estimated by you, and the costs [fol. 1446] of installation, as estimated by you?

A. Yes, and the difference between that and what the properties would be worth if they had no business attached and were not a going concern is perhaps the measure of going concern—that is, the junk value.

Q. Do you purport this to be an engineering estimate of costs or a legislative finding of value?—These direct construction costs here?

A. They purport to be an estimate of costs.

Q. And that is an estimate of costs. Well then, where, in those estimates of cost, is any element for going value?

A. Just in just what I have said, in that they are valued as a going entity, and if they had not been valued as a going entity, they would have been valued as junk.

Q. Well, let's go over it again.

A. You will get the same answer.

Q. Take a pipe line. In computing the cost of that transmission line from Carolina-Texas to Laredo, the first element you got was the cost of the pipe, as quoted to you by a manufacturer, laid down at Laredo?

A. Yes.

Q. And then you computed the cost of unloading and hauling that pipe, and stringing it, didn't you?

A. Yes.

Q. And then you computed the cost of digging a ditch?

A. Yes.

[fol. 1447] Q. And then the cost of coupling up that pipe, and then laying it in the ditch?

A. Yes.

Q. And then testing it?

A. Yes.

Q. And then the cost of covering up the pipe in the ditch?

A. Yes.

Q. And then you cover such costs as workmen's compensation and incidental plant expenditures?

A. Yes.

Q. And when you got through with that, you were through with your direct construction costs, weren't you?

A. Yes.

Q. Where, in there, is any element of going value?

A. If I had been making an appraisal of the property and found it had no business attached and was not a going entity or a going concern, I would have estimated what its value was to take it up and salvage it.

Q. Then as I understand it, your answer is that the going value is the difference between the cost of the material and the cost of installation, and what you would recover if you turned right around and having computed the cost of installing this pipe line, pulled it up again? Is that right?

A. No, that has been used as the measure of going value, but I have not used that, and as a matter of fact, I have not used any measure of going value, because I have not found [fol. 1448] any going value in the property other than the property was valued as a going concern and given its full structural costs, and I considered the history of the company, that it had earned money from the start and had earned its own going value.

Q. Then, as I understand it, going value, if it is included in the direct construction costs at all, is not the cost or is not the difference between the direct cost to install it and what you would salvage if you pulled it up?

A. No.

Q. Well, where is it in there?

Mr. Bobbitt: Now, I submit, if the Court please, the witness has told him about three times.

The Court: Yes, I think so. The witness has answered that question; whether or not his answer is satisfactory to Mr. Coates is another matter——

Mr. Bobbitt: That's just it.

The Court: But I know the witness has told his version of it at least twice.

Mr. Bobbitt: I don't want to say it is the witness' theory of it, but it is his idea of——

The Court: He has said the same thing about three times, Mr. Coates.

Mr. Coates: I want to find out what he has included as that value, and the only way I know how to express value is in terms of dollars.

The Court: He has told you he did not express it as a [fol. 1449] separate value, in dollars and cents.

Mr. Coates: But he has said that he has included it in his estimate of costs and I want to know where it is.

The Court: He says because it is a going concern.

Mr. Coates: And I am now trying to show that he only has in here the costs of installation.

The Court: I will let you ask him and let him tell you one more time.

Q. Haven't you included in here in these direct construction costs only the costs of material and costs of installation?

A. Yes.

Q. All right. Now, what have you got included in these undistributed construction costs? Are those your estimates of the costs which would be incurred in the reconstruction of this property, as it was constructed?

A. Yes.

Q. They are out of pocket expenditures that you estimate would be incurred?

A. Yes.

Q. For these separate items of cost?

A. Yes.

Q. Now, where in there is any going value?

A. Those costs would be entirely wasted and of no value at all if the concern was not a going concern, and if the property was not connected up with gas fields on one end and customers on the other and doing business.

[fol. 1450] Q. Then those items, if you built a pipe line and never used it and had to pull it up, they would be non-recoverable items, would they?

A. Yes, except what salvage value you would get out of the property.

Q. What salvage value would you get out of engineering during construction?

A. You would not get any. That is why I say those items would all be lost.

Q. Then materials and supplies. That constitutes the inventory of materials and supplies?

A. Yes.

Q. Is there any going value in there?

A. Only as stated. They would have a value for resale, if they were not usable, or if they were not connected with a going concern.

Q. And is there any going value in your working cash?

A. Only as stated. If the concern were not a going concern there would be no use for working cash.

Q. Do you subscribe to the proposition that going value

is the added element of value inhering in a property, over and above the values of its component parts, by reason of the fact that it has its business attached, its operating personnel trained, its operating routines established and is in connected and coordinated operation?

A. Yes.

[fols. 1451-1474] Q. And have you separately evaluated or evaluated at all any such element in this property?

A. No.

* * * * * * *

[fol. 1475] Tuesday, March 27, 1934.

Afternoon Session: 1:30 P. M.

MAYOR ALBERT MARTIN, recalled by plaintiffs, testified as follows:

Direct examination.

Questions by Mr. Bobbitt:

Q. Mayor Martin, I believe at the time we recessed the other day when you were on the stand you had just testified in respect to your opinion of the increased number of meters for the use of gas that would result from the lowering of the price of gas in the City, and you had testified in respect to the amount of wood, or the fact that there was a good deal or a large amount of wood hauled into the City and there disposed of and used by people for fuel purposes?

A. Yes, sir.

Q. Now, I believe you testified something about having sold wood off of your ranch north of the City there?

Mr. Coates: It is understood that our objection goes to all this.

The Court: He hasn't started testifying yet today.

Mr. Coates: Well, I may be too early.

Mr. Bobbitt: You have objected to all this line of testimony before, and you are renewing your objection?

[fol. 1476] Mr. Coates: I just want to preserve my objection.

Q. Do you know approximately how much wood you have sold per month from your ranch for the purposes you testified about the other day?

A. Yes, sir. Since last May I have sold in the neighborhood of not less than forty-five to sixty dollars a month worth, at seventy-five cents a load.

Q. And your ranch is sixty-six miles from Laredo?

A. Yes, sir.

Q. I believe you said fifty-five miles north on paved road, and then ten miles on dirt road, along Nueces River?

A. Yes, sir.

Q. You sold it at 75 cents a truck-load?

A. Yes, sir.

Q. And how much approximately is hauled per load?

A. A cord to a cord and a half, I reckon; it is a good load.

Q. And you have sold that to people who are delivering it and selling it within the city limits of Laredo?

A. Yes, sir.

Q. I believe you testified that there would be twelve to fifteen hundred additional meters as a result of the reduced price if the reduced rate went into effect?

A. Yes, sir.

Q. What do you base that estimate on?

A. My general knowledge of conditions in Laredo. Quite a number of people have complained to me with reference to the high price of gas.

[fol. 1477] Mr. Coates: It is understood our objection goes to all this line of testimony?

The Court: Yes, sir.

Q. Go ahead.

A. They would all connect up if they could get a cheaper rate. And further, I made a little survey of my personal files through the Sanitary Inspector of the City, and from their figures and information, why, that is where I base my conclusions.

Cross-examination.

Questions by Mr. Coates:

Q. Mayor Martin, you have been connected with the City in an official capacity for many years?

A. Since 1920, in April.

Q. And during that time has the municipal government ever operated any form of public utility?

A. No, sir.

Q. That is, the water company there is privately operated, isn't it?

A. Yes, sir.

Q. Have you ever operated a gas distribution company or any other form of public utility?

A. No, sir.

Q. And have you ever done any work in attempting to secure gas consumers?

A. That is none of my business, no, sir.

[fol. 1478] Q. What business have you been engaged in?

A. When I returned from the War I went back to my official position that I had left, as Assistant Cashier of the Milmo National Bank, and I stayed with the Milmo National Bank as Assistant Cashier for some time, and ascended to the Presidency of the Bank in 1931; and in 1926 I was elected Mayor of the City. The Milmo National Bank was succeeded by the First National Bank of Laredo.

Q. Your business has been that of a banker and ranch-owner and operator?

A. Yes, sir.

Q. And it has been confined very largely to those two types of business with the exception of your service in connection with the City?

A. Yes, sir.

Q. Now, as I undersand your position, Mayor Martin—just so we can understand each other—what you are attempting to get here as the Mayor of the City is lower gas bills for your consumers in the City of Laredo, is it not?

A. Yes, sir.

Q. And that was the idea you had in mind at the time the rate reduction ordinance was passed, wasn't it?

A. Well, that was passed after we had made—had ordered an investigation through an ingineer—based on his figures.

Q. That is what you had in mind?

A. Yes, sir.

[fol. 1479] Q. And that was the result that you thought the rate reduction ordinance would have?

A. Yes, sir.

Q. Then when the Commission's order came along fixing the 55-cent net rate, why, as Mayor of the City, you attempted to enforce and put into effect that rate?

A. Yes, sir; but we didn't get a chance.

Q. I believe the present rate is 75 cents, less ten per cent discount?

A. If paid within ten days.

Q. If paid within ten days?

A. Yes, sir.

Q. And the Railroad Commission's rate is 55 cent- plus ten per cent penalty if not paid within ten days?

A. Yes, sir.

Q. Assuming prompt payment in the case of both rates, that is approximately a twenty per cent reduction, is it not?

A. I haven't figured it.

Q. As a banker you can figure per cents pretty well, can't you?

A. I could, if you give me a little time to do it.

Q. Well, it is approximately 20 per cent reduction, is it not?

A. I have not figured it, but I can figure it. If you say that is what it is, I will agree with you, Mr. Coates. I guess you are right.

Q. All right. It has been your intention, and you have [fol. 1480] stated on a number of occasions, haven't you, that by putting that rate into effect, why, that would give the residential consumers there in Laredo approximately twenty per cent reduction in their gas bills?

A. Yes, sir.

Q. And that is the effect you think the putting into effect of this rate will have?

A. Yes, sir.

Q. And you likewise announced on numerous occasions that if the rate is put into effect that there will be a refund of at least twenty per cent of the amount paid by the residential consumers?

Mr. Bobbitt: Doesn't the order of the Commission provide just what you are interrogating this witness about? The order of the Commission provides for a refund, and it is in evidence here, and his statement of what the order of the Commission provides would not add anything here.

Mr. Coates: It is cross examination of this witness.

Mr. Bobbitt: He is asking him if he has not stated on

numerous occasions that if this order of the Railroad Commission goes into effect it will result in a lowering of the rates a certain percentage and that a refund would result to the rate-payers of Laredo.

The Court: Well, on what grounds do you object?

Mr. Bobbitt: I think it is immaterial and irrelevant to any issues here, and the order of the Commission in writing [fol. 1481] would be the best evidence of that fact.

The Court: The objection is overruled.

Mr. Bobbitt: Note our exception.

Q. And you have stated on numerous occasions, have you not, that if the rate is put into effect that it will mean consumers will get a refund of approximately twenty per cent of the amount of the bills that they have paid since January 1, 1932?

A. I have stated that because of the fact that is what the order of the Commission carries, the difference between the 55-cent rate and whatever rate we have been paying.

Q. And the amount the residential consumers would pay under the 55-cent rate would be approximately 20 per cent of what their bills had been prior to that time?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. You are attempting to both secure this refund in the amounts of bills paid back to January 1, 1932, and for the future, are you not?

A. To sustain the order of the Railroad Commission.

Q. And that is the effect you think this order will have, is it not?

Mr. Bobbitt: That calls for a conclusion.

The Court: Yes, sir. The objection is sustained as to what effect he thinks it will have.

[fol. 1482] Q. That is your opinion, is it not, and you have so stated on numerous occasions, that this 55-cent rate if put into effect would reduce the average bills of residential consumers there in Laredo about twenty per cent over what they were paying under the 75-cent rate?

A. Yes, sir.

Q. And that is the amount of reduction that you as a house-owner there in Laredo would expect to get in your average bill under the 55-cent rate, is it not?

A. Yes, sir.

Q. Now, did you state that there were about three thousand people down there in Laredo that were registered as either partly or wholly public dependents?

Mr. Bobbitt: You mean C. W. A.?

Mr. Coates: Yes, sir.

A. Yes, sir.

Q. Are those heads of families, or every member of the family?

A. No; that includes bachelors, as well as heads of families.

Q. Does it include children?

A. No, sir.

Q. But it includes bachelors and married men—a bachelor counting one, and a married man counting one?

A. Yes, sir.

Q. There in Laredo, Mayor Martin, they have somewhat larger average size families than they do in the interior of the State, don't they?

A. I am not an expert on that; but I would judge it would [fol. 1483] run around five to the family.

Q. Do you think the over-all average in Laredo—you mean five children?

A. Five members to each family.

Q. That is, mother and father, and three children?

A. Yes; I think that is what the records of that Commission have shown.

Q. What Commission?

A. The Relief Commission.

Mr. Bobbitt: Are you asking about the general condition, or the relief condition?

Mr. Coates: I am asking his judgment about the average size family there in Laredo.

The Court: Well, he has answered. Go ahead.

Q. Do you know in what county this Sevando-Benavides Estate is located?

A. It is located in Webb County, Duval County, and Zapata County—three counties.

Q. Do you know whether that is in what has been referred to here as the Carolina-Tex field up here, or in the Cole-Bruni Field?

A. It is in both.

Q. Does it extend into the Carolina-Tex Field?

A. Yes, sir.

Q. And are there nineteen wells on that Estate in the Carolina-Tex Field?

[fol. 1484] A. No; in both fields—in the Cole and in the Carolina-Tex.

Q. Do you know, of the nineteen wells to which you have referred, how many of them are in the Carolina-Texas Field, and how many are in the Cole-Bruni Field?

A. It is approximately—divided into nine and ten, more or less—it is just about the same number of wells in each field.

Q. About the same number in each field?

A. Yes, sir.

Q. Do you know approximately how many houses there are in Laredo having three rooms or better that are not equipped with gas?

A. No; I couldn't say.

Q. Do you know how many having four rooms or better that are not equipped for using gas?

A. I couldn't say.

Q. This twelve or fifteen hundred customers, from among what class of people would you expect those customers to come, Mayor Martin?

A. Well, from all classes of people—good laboring class of people getting all the way from one to three dollars a day.

Q. Do you know anybody getting as much as three dollars a day that does not use gas in his house?

A. I have not made a particular study of it. I don't know definitely.

[fol. 1485] Q. Do you know anybody that is getting as much as two and a half a day that does not use gas down there?

A. I have not gone into that particular feature of it.

Q. Do you know whether this twelve or fifteen hundred customers, what part of them are located on the same streets the Company has lines on?

A. No; I couldn't say that either.

Q. Do you know what part of them the Company would have to extend its mains to in order to reach?

A. I do know, Mr. Coates, if you had a map of the City of Laredo, what it would cover. If you are familiar with the City, most of the population in the City of Laredo lies be-

tween, north of the Texas-Mex. tracks, if you know where they are?

A. Yes.

A. —and west of what we call the Arroyo Zacate. In a number of instances in there there are twenty-five or thirty houses to the block; and it covers probably from the Arroyo Zacate to Santa Maria Avenue, and from Bruni Street to the Tex-Mex. tracks.

Q. What size blocks are those?

A. About 330 feet.

Q. What size house- are they?

A. Well, the majority of them, I guess, are three to five-room houses.

Q. Each occupied by a single family?

[fol. 1486] A. Yes, sir.

Q. And is that section largely populated by people of Mexican extraction?

A. Yes, sir.

Q. And it is in that area where you think these twelve to fifteen hundred customers could be picked up largely?

A. The majority of them.

Q. Can you state about what per cent of the twelve to fifteen hundred would be picked up there?

A. Around 700.

Q. In your judgment?

A. Yes.

Q. And what about the remainder of them?

A. The remainder would have to go over there east of the Creek, and what is known as the Colone Hidalgo.

Q. And what size are the blocks over there?

A. About the same.

Q. Just about the same character of residential section as the one you have just previously described?

A. No; it is probably a little better construction?

A. A little better construction?

A. Yes, sir.

Q. You think the remainder of them would come over there in that section?

A. Of course, Laredo is a large city. Take the last census, I think it gave it 32,618, that was 1930; and certainly the [fol. 1487] population has increased, and it has got to go all over the town there; I can't tell you definitely where; but as I have stated before here, from my personal knowledge of conditions as they exist there, knowing the people, and

living there all my life, and having heard them express themselves, and——

Q. Just a minute. I don't like to object to anything you say, but I believe you are not permitted to make voluntary statements here.

The Court: Stick to the question.

Q. But you think of the twelve to fifteen hundred customers, by far, or practically all of them would be picked up in those two areas?

A. The majority of them, yes.

Q. And is there any other area of like kind that you have in mind?

A. Naturally, I have it distributed all over the town, Mr. Coates.

Q. But these are the two principal areas?

A. Yes, sir.

Q. And are there residential sections such as these in other parts of the town where you think the balance of the twelve to fifteen hundred would be picked up?

A. Yes; I think they would be picked up down in an areas south of Iturbide Street to the River, and west of Santa Eduardo Avenue.

Q. You think they would pick up some in there, too?

[fol. 1488] A. Yes, sir.

Q. I believe you stated that the average cost to the consumer of making installations for using gas would be from six to eight dollars; I think that was your testimony?

A. Yes, sir.

Q. I believe you said that would be a connection for a cook stove or a hot plate?

A. Yes, sir.

Q. And a space heater?

A. Yes, sir.

Q. And that was about the character of equipment you expected these people to put in?

A. And a light.

Q. Would they have a cook stove, a space heater, and a light?

A. They would have approximately two lights, a cook stove, and a little heater.

Q. Do you think they could get all that for an investment of six to eight dollars?

A. I am not qualifying with reference—as an expert on that particular matter.

The Court: You don't mean to intimate he could buy the cook stove, and heater, and all that for six or eight dollars?

Mr. Bobbitt: I understood him to testify that the installation would probably be that.

The Court: The installation from curb to house would be six to eight dollars?

[fol. 1489] Q. Did the Six to Eight Dollars simply cover the yard service line and the house piping?

A. Yes.

Q. And do you know what yard service lines cost per foot, installed?

A. Well, it wouldn't cost over fifteen to twenty cents a foot.

Q. Have you ever bought and installed any yard service lines?

A. Yes.

Q. What size would that be?

A. It's that small size pipe you use.

Q. One and one-quarter inch?

A. No, no.

Q. One-half inch?

A. Half inch, if any; that's about what it would be, yes.

Q. Would that go for pipe that was protected—that is, that had protective coating on it?

A. Well Mr. Coates, you are covering too much territory. I am not an expert with reference to those matters, but I guess I could get you the figures and information. I would rely on some plumber or some plumbers, if I was going to make an installation.

Q. I was not doubting you but was testing the accuracy of that statement, Mr. Mayor, because I want to know how much you know about the actual cost of installing these yard services and the house piping.

Mr. Bobbitt: Do you suggest that in these little instal-[fol. 1490] lations of yard pipes here, that you have them wrapped with this protective coating you have for transmission lines?

Q. I didn't suggest it; I am asking the witness a question.

A. If I may be permitted to say this—they don't care, because their meter is right at the gate, you know, just as

they come in, and that is a matter that they wouldn't be interested in. Because if it is going through the meter it is registered against the property owner.

Q. Do you mean to say the meters there in Laredo are at the curb and not at the house?

A. It is right at the curb.

Q. In all instances it is right at the curb?

A. No, but in the instance of today, they are just as close to the line as they can possibly get it inside of the property line.

Q. That is, the meters you have seen installed at Laredo are installed at the curb and not at the house?

A. They are installed all over the lots.

Q. And so your——

A. I will tell you in my own particular instance, Mr. Coates, mine is right at the entrance to the kitchen, and here six or seven years ago, it developed that the line in there through the yard, we were using a lot of water, and it corroded and the gas company was evidently losing lots of gas, and they wanted to put it in right there but I wouldn't let them and finally after we had a little dispute about it, I put [fol. 1491] in all that line myself and protected it and the meter remained where it is.

Q. The meter remained where it is.

A. Yes.

Q. Where there was a loss of gas through the yard service line?

A. Yes.

Q. Then in your judgment the yard service line and the house piping in these residential districts we have been talking about would cost six to eight dollars?

A. In the class of connections I am talking about, Mr. Coates, yes. I am not talking generally about the handsome houses, the beautiful hardwood floor and an expensive proposition. All of those people that have that sort of home are now connected, but I am talking about the good, general run of hard working people that use their gas and cook their meals and pay their bills as well as the balance of them.

Q. And their yard service line, in your judgment, would cost from six to eight dollars?

A. Yes.

Q. And would that likewise cover their house piping? That is, the piping that leads from the meter location or

from outside the house to the outlets for the use of that gas in the house?

A. That depends on how many connections they want to get and where they want to run it.

Q. For the type of construction you have been talking about.

A. Yes, it would for that type of construction.

[fol. 1492] Q. The six to eight dollars would cover both the yard service line and the house piping?

A. It would cover fifteen to twenty-five feet of pipe.

Q. Fifteen to twenty-five feet?

A. Yes.

Q. And those houses that you are talking about, most of them are located pretty close to either the street or the alley line?

A. Yes, and there are absolutely no sidewalks or curbs in any of the area I am thinking about and that we are now discussing.

Q. And what are they on—about 25 foot lots?

A. Well, that, and others are closer together.

Q. Others are closer together than that?

A. Yes.

Q. Now, the investment to use gas by those consumers would not simply consist of a yard service line and house piping, but they would likewise have to buy the stoves to utilize the gas, wouldn't they?

A. Yes.

Q. And would most of them buy a cook stove, do you think?

A. Not one of these handsome cook stoves, no sir; they would buy something within their means.

Q. Would they buy a range, or what is known as a hot plate?

A. They would probably buy a hot plate.

Q. Do you know what the approximate cost of that would be?

A. No, sir.

Q. You don't know what that approximate cost would be.

[fol. 1493] What kind of a space heater do you think they would buy?

The Court: Gentlemen, you will have to excuse me a minute; I am called on the long distance telephone. (Court is recessed for a few minutes, following which:)

Q. Then the installation for cooking which you would expect from these additional consumers would be a hot plate, would it?

A. Yes.

Q. And you would likewise expect them to install one or two lights for using gas for lighting?

A. Yes.

Q. And likewise expect them to put in a space heater?

A. Yes.

Q. And about what type or size of space heater?

A. Oh, a small one, $3.50 to $4.50 worth.

Q. A $3.50 to $4.50 space heater?

A. Yes.

Q. And about what would that hot plate cost; do you know?

A. About the same approximately.

Q. And so for an investment of six to eight dollars in yard service lines, and say seven to nine dollars in hot plate, space heater and light jet, you think they would become consumers of gas?

A. A total investment of how much?

Q. Six to eight dollars in yard service line, an average of four dollars for the hot plate and four dollars for the space heater and one dollar for the two light jets; why they [fols. 1494-1495] would then be equipped to use gas?

A. Yes. I know of a lot of them that had it, Mr. Coates, and discontinued it.

Q. And they discontinued about that character of use, did they?

A. Yes.

* * * * * * *

[fol. 1496] R. H. Montgomery, a witness for the Plaintiff, being first duly sworn, testified as follows:

Direct examination.

Questions by Mr. Bobbitt:

Q. Your name is R. H. Montgomery?

A. Yes.

Q. Where do you live, Mr. Montgomery?

A. In Austin.

Q. How old are you, Mr. Montgomery?

A. 42.

Q. What business or profession are you engaged in, Mr. Montgomery?

A. I am a teacher at the University.

Q. At the University of Texas?

A. Yes, the University of Texas.

Q. What do you teach at the University of Texas?

A. Economics, primarily public utilities and transportation.

Q. Where did you go to school, Mr. Montgomery?

A. You mean to begin at the beginning?

Q. Yes.

A. Well, I started in Menard County, in a village called Hext—a little log cabin schoolhouse. I started there in 1897.

Q. How long did you go there?

A. I went there off and on until 1909. How much, of course, it is impossible to say.

Q. How many years did you attend school there?

[fol. 1497] A. Well, about ten years, or twelve years, with probably three months a year or two months a year.

Q. Then where did you next go to school?

A. I went to Mason high school in 1909, and graduated there in 1910—one year.

Q. In Mason, Texas?

A. Yes. And then to the Teachers College in San Marcos, 1910, '11 and '12, and graduated in 1912. Then to the University of Kansas—summers principally— until 1920, and taught there until 1920 and '21, and then came to the University of Texas.

Q. What degree did you get at the University of Kansas?

A. An A. B. Degree, an then an M. A. degree at the University of Texas in 1923.

Q. And then?

A. Ph. D. at the Brookings Graduate School in Washington, in 1926.

Q. Did I understand you to say you taught in the school of economics at the University of Texas?

A. Yes, the Department of Economics.

Q. Who is the head of that department?

A. We have no official heads of departments in the

College of Arts and Sciences at the University. The chairmanship is passed around among the full professors there in the department.

Q. How long have you taught at the University of Texas?

A. Twelve years, as professor of economics.

[fol. 1498] Q. Have you taught in other Universities?

A. Yes, I have taught in three other universities—the University of Kansas, the University of Pennsylvania and University of Pittsburgh.

Q. I will ask you, Mr. Montgomery, you were subpoenaed here to testify in this case, were you not?

A. Yes.

Q. And did you discuss the effect of this case with anyone before you were subpoenaed here?

A. I did not.

Q. What phase of economics—or utilities, as I understand you say you taught, particularly public utility matters in the school of economics?

A. Yes.

Q. What particular phase of it have you specialized on?

A. In the attempts—that is, if I tried to explain my own work in teaching, it is in the attempts that we have made to regulate public utilities and the effects of those attempts.

Q. Have you ever testified at any rate case, or have you ever testified in any case?

A. No, this is the first time I have ever been in court—in any capacity.

Q. As a witness, or a defendant?

A. Yes; that should be obvious.

Q. Mr. Montgomery, have you made a study over a period of years and if so, what period of years, of the subject of [fol. 1499] utility services and commodities furnished to the public?

A. I should say about fifteen years, since I began in that particular field, beginning in 1920.

Q. And have you made a study, Mr. Montgomery, in that line, of the price trends in respect to services and commodities furnished to the public by utilities companies?

A. If I understand what you mean, yes, of course.

Q. Have you made a study, Mr. Montgomery, of the effect of the raising or lowering of prices for commodities and services furnished to the public by utility companies?

A. Yes, I have made some detailed study in that field, particularly for the past six or seven years.

Q. Based on your study and experience in that regard, have you an opinion as to the effect of the use of a service or a commodity by a utility from the raising or lowering of the price of that service or commodity?

A. Yes, I have opinions in that field, as anyone necessarily would have who had studied, I think, the price trends.

Q. What is the effect in your opinion, Mr. Montgomery, of the price of a service or a commodity furnished to a community by a utility being lowered?

Mr. Coates: Don't answer it. May I ask Mr. Montgomery a few questions for the purpose of testing——

The Court: Yes.

Questions by Mr. Coates:

Q. Mr. Montgomery, have you ever been in Laredo, Texas?

[fol. 1500] A. Yes. I have been there, but only in passing through. I have spent very few days there.

Q. And what is the total length of time you have spent there?

A. I don't suppose I have ever been there over 36 hours at one time.

Q. And what was the last time that you spent there?

A. I was there twice during the Christmas holidays, this year.

Q. You were not paying any particular attention to gas or economic problems at that time, were you?

A. No, neither on the way down, nor back.

Q. So you have not been in Laredo for the purpose of making a particular study of that community or the characteristics of its population or the characteristics of its gas use there, have you?

A. No.

Q. And has your entire life been spent in teaching?

A. No. Not quite half of it.

Q. Have you ever operated a public utility?

A. No, I have never operated a utility.

Q. You say you have never operated a public utility?

A. Never did.

Q. Have you ever been employed by a public utility in any capacity?

A. No, none whatever.

Q. And the half of your life that you say has been spent in teaching has been the adult half of it, hasn't it?

[fol. 1501] A. Yes, or may I correct that answer just one second. I have spent about four or five years since I graduated from college that I was not in the teaching profession.

Q. What profession were you in at that time?

A. I was in the United States Army for about two years, and then a traveling salesman for a little over two years.

Q. What were you selling?

A. Engraving.

Q. And the price trends about which you have been interrogated—are those dealing with price trends generally over the United States?

A. You mean public utility?

Q. Yes.

A. Yes.

Q. And do you likewise take in any foreign countries? Are those weighed into your price trends?

A. Of course anyone in my particular field necessarily, I suppose, studies the price trends of foreign nations. My study of that nature has been primarily in Ontario.

Q. Has it been confined to any particular type of public utility service?

A. No, not confined; my work has been spent principally in electric utilities and transportation.

Q. Have you ever given any particular study to price trends with respect to the sale of natural gas?

A. Very little detailed study of my own in that field.

[fol. 1502] Q. But it is principally with respect to electric utilities and transportation, is it?

A. Yes.

Mr. Coates: We object to the question propounded by counsel and the answer sought to be elicited from this witness, because no proper predicate has been laid for the giving of an opinion by him, and it is obviously an attempt to compare price trends which may weigh in the many, varying and variant conditions over the entire United States and in some foreign countries, and apply those to the City of Laredo, and because the witness in that respect and in respect of which he has been questioned does not indicate a sufficient familiarity with the conditions existing in Laredo

for his opinion to be legally admissible, and because it is too remote and speculative.

The Court: Someone tell me what the question is now, please; it's been so long I've forgotten it. Will you go back and read the question, Mr. Reporter?

(Whereupon the following question was read: "What is the effect in your opinion, Mr. Montgomery, of the price of a service or a commodity furnished to a community by a utility, being lowered?")

The Court: I will let him answer it.

Mr. Coates: Note our exception. And may we have our same objection without interrupting Mr. Montgomery?

The Court: Yes.

The Witness: Will you read the question again, please?

[fol. 1503] (The question is repeated to the witness.)

Mr. Coates: And we object to this testimony further for each and all the reasons to which we objected to the introduction in evidence of Plaintiff's Exhibit 9 and the testimony of the witness J. O. Walker.

The Court: Overruled.

Mr. Coates: Note our exception.

Mr. Bobbitt: Now, will you read the question again, and see if we can get started? (Mr. Bobbitt again questions)

(The question is again repeated.)

A. It should increase the consumption of the service or gas, certainly, other things being equal.

Q. And that would be true, would it not, as to an increase in the users, or the number of customers or takers, generally, as well as an increase in volume by existing customers or users; is that your opinion?

A. In my opinion, that would be true of any economic good.

Q. And that is particularly true of a utility commodity or service, is it not, in your opinion?

A. Of the ones I know about, I know it is true. Of the ones I do not, I should expect that to be true, and in my opinion it would be.

Q. And that is true generally of services and commodities furnished by different utilities—that is, gas, water and lights?

A. In so far as my study goes, yes, it is.

Q. That principle, in your opinion, would hold true?

A. Yes.

[fol. 1504] Q. Now, Mr. Montgomery, this case involves a controversy in which it is sought here to sustain an order of the Railroad Commission of the State of Texas, filed June 13, 1933, reducing the price of natural gas to residential consumers in the City of Laredo from 75 cents per thousand cubic feet to 55 cents per thousand cubic feet——.

Mr. Coates: We object to the question, because the assumption is erroneous in that the rate is, as reflected by the testimony, 67½ cents net rate, as compared with a 55 cents net rate, and is based upon an erroneous assumption.

The Court: I believe in your petition you stated what those things were, and he is trying to show that.

Mr. Coates: In our petition, we explained about the ten percent discount.

The Court: However, Mr. Bobbitt, state what the actual condition is, with regard to the discounts.

Q. The 75 cent rate which was included in that question is 75 cents less ten percent for prompt payment of bills, within ten days, and the 55 cents rate referred to means 55 cents if paid within a certain time, and otherwise there will be ten percent added to it, as a penalty. Now, this suit involves that controversy stated to you, Mr. Montgomery. Is it or is it not your opinion, based upon your experience and your study of the question, that the putting into effect of the 55 cent rate, as it has been explained to you, as against the 75 cent rate as explained to you, would result in an in- [fols. 1505-1521] creased use of the gas and gas service in the city of Laredo, or a reduction of it?

A. In my opinion, it certainly would result in an increase.

Q. Does your opinion in that respect extend to an increase in the number of individual customers or consumers of the commodity?

A. I should expect both of those to occur certainly, with any material decrease in the price of any good or service.

* * * * * * *

[fol. 1522] March 27, 1934

A. D. GREENE, a witness for defendant, resumed his testimony and testified as follows:

Recross examination.

Questions by Mr. Bobbitt:

Q. You are Mr. A. D. Greene who testified here on other occasions?

A. Yes, sir.

Q. You are the Chief Engineer of the United Gas Public Service Company——

A. Yes, sir.

Q. ——as I understand it.

A. Yes, sir.

Q. And you have a number of engineers in your organization under your supervision and control?

A. Yes, sir.

Q. One of whom is Mr. J. E. Worsley?

A. Yes, sir.

Q. He is a member of your department?

A. Yes, sir, that is correct.

Q. Is he the head of a department, under you, of the company?

A. Yes, sir.

Q. What is that department?

A. He has charge of pricing and appraisals.

[fol. 1523] Q. He is a valuation engineer, isn't that correct?

A. Yes, sir.

Q. How long has he been with the company?

A. I can't give you the exact date, Mr. Bobbitt. It was about——

Q. Approximately.

A. About January 1, 1931.

Q. And he is still with the company?

A. Yes, sir.

Q. Is that Mr. Worsley's signature? (Counsel exhibits paper to witness).

A. Yes, sir.

Q. That is Mr. Worsley's signature?

A. I think so, yes, sir.

Q. Yes, sir.

Mr. Coates: Are you introducing that?

Mr. Bobbitt: Well, I don't know.

Q. Mr. Worsley was associated with the company and was under your direction, and is now with the company and under your direction as a Valuation Engineer.

A. He is now under my direction, yes, sir.

Q. And he assisted in the appraisal of the properties here involved?

A. Yes, sir, he did.

Q. In making the appraisal, Mr. Greene, of the properties [fol. 1524] here involved, particularly the gathering lines, Mr. Worsley did that particular work, did he not, for your department?

A. He prices the material, Mr. Bobbitt, exclusive of the pipe.

Q. And in making his appraisal—in working with you in the making of the appraisal of these properties he excluded from the appraisal all gathering lines, did he not?

A. No, sir.

Q. How is that?

A. No, sir, not all gathering lines.

Q. Do you know which ones he excluded?

A. He excluded the Carolina-Texas gathering system because we were carrying a one cent gathering charge, and obviously we would not include the appraisal on it and charge the gathering charge.

Q. Do you know whether or not when he was appraising these properties, that he represented to the City of Laredo that it was his understanding that the gathering lines were not to be included in the appraisal of the properties, and that he did not include them in that appraisal?

Mr. Coates: I don't know—Are you cross examining him from what is in that letter?

Mr. Bobbitt: Well, I have got the letter before me, yes, [fol. 1525] sir.

Mr. Coates: We object, because the witness is being cross examined from a letter that he has identified but which he has not been permitted to examine.

The Court: I haven't heard any questions referring to the letter at all, except asking him to identify the signature.

Mr. Bobbitt: No, sir.

The Court: I will overrule the objection.

Q. Will you read that letter, Mr. Greene, particularly paragraph four of that letter? (Counsel hands paper to witness).

A. Shall I read the paragraph?

Mr. Coates: No, read it to yourself.

A. I have read it.

Q. Now, will you read paragraph four of the letter, Mr. Greene?

A. (Reading:) "Your attention is called to the fact that my appraisal does not cover any gathering lines, wells, purchase meters or any other property in connection with production. It is my understanding that in working up the gas, a field price of five cents per thousand, or some other price, was assumed at the pipe line."

[fols. 1526-1529] Mr. Bobbitt: If the Court please, we offer in evidence a portion of the letter, particularly——

The Court: It has already been read, hasn't it?

Mr. Bobbitt: That portion has been read.

Mr. Stout: It is already in.

The Court: Yes, it is already in.

Mr. Bobbitt: Well, I don't want to encumber the record with anything that isn't necessary.

The Court: It has been read, and is in.

Mr. Bobbitt: That letter from which a paragraph has been read by the witness in evidence here is dated October 7, 1931, and is signed by J. E. Worsley, Valuation Engineer, and is addressed to the Consulting Engineer of the City of Laredo.

* * * * * * *

[fol. 1530] W. W. Stein, a witness for defendant, resumed his testimony and testified as follows:

Recross-examination.

Questions by Mr. Lange:

Q. Mr. Stein, you were on the stand several days ago, and we asked you with reference to a gas purchase contract between the South Texas Gas Company and the South Texas Production Company, with reference to the purchase

of gas flowing to Laredo. Do you have that contract with you, and the subsequent amendment to it?

A. South Texas Gas Company and the South Texas Production Company, is that the contract?

Q. Yes, sir.

A. Give me the date, please.

Mr. Bobbitt: That is the one, Mr. Stein, that we spoke at length and in detail about.

[fol. 1531] Q. Yes, South Texas Gas Company and the South Texas Production Company, dated April 10, 1928, and the subsequent amendment on November 30, 1929.

A. I have a photostatic copy of the contract.

Q. Is that the one you have with you, Mr. Stein?

A. Yes.

Mr. Bobbitt: Let's see them both.

Q. Is that the amendment?

A. That is the amendment. (Papers are handed to counsel.)

Q. The instruments which you handed me are photostatic copies of the originals of the contract and the amendment, is that correct?

A. I would like to see them, please. (Papers are handed back to witness.) The photostat of the contract between the South Texas Production and the South Texas Gas Company, dated the 10th of April, 1928, is a copy of the original.

Mr. Coates: Now, what is the other a copy of?

A. The other is a photostat of a certified copy of the original which is on file with the Chatham Phenix National Bank and Trust Company, Trustee.

Q. That is the original contract, of which the copy that you handed me is a photostat, was dated April 10, 1928, and was executed by the South Texas Production Company by its Vice-President—do you know whose signature that [fol. 1532] is?

A. E. G. Diefenbach.

Q. Vice-President, as Seller?

A. Yes, sir.

Q. Attested by Warren J. Dale, Secretary?

A. Yes.

Q. And also signed by South Texas Gas Company, by

Alfred Borchert, Vice-President, as Purchaser, and attested by Warren J. Dale, Secretary?

A. Yes.

Q. And the amendment to the contract, the photostat of a certified copy of which you handed me, dated November 30, 1929, is executed by South Texas Production Company, and signed by W. W. Stein, Vice-President. That is your signature on the original?

A. My signature is on the original, yes.

Q. As Seller, and attested by N. N. Oille, Assistant Secretary, and the South Texas Gas Company, by O. R. Seagraves, President, as Purchaser, and attested by Leo Wright, Secretary?

A. Assistant Secretary.

Q. Assistant Secretary?

A. Yes.

Mr. Lange: We desire to introduce both of these contracts in evidence, and have the Reporter identify them.

[fol. 1533] Mr. Coates: We have no objections, so far as their authenticity is concerned, but we object to them as immaterial and irrelevant to any issue in this case, not relating to the period under review and having no materiality.

The Court: Are they the contracts you have been talking about all the time?

Mr. Lange: Yes, sir.

The Court: All right; the objection is overruled.

Mr. Coates: Note our exception.

(Thereupon the contract dated April 10, 1928, was marked as Plaintiffs' Exhibit No. 10, and the contract dated November 30, 1929 was marked as Plaintiffs' Exhibit No. 11. Said Exhibit No. 10 appears in Volume of Exhibits III, page 1974; and said Exhibit No. 11 appears in Volume of Exhibits III, page 1978.)

Mr. Lange: That is all, Mr. Stein. Oh, one further matter.

Q. You were asked to furnish us the number of meters in the City of Laredo covering gas purchased at seventy-five cents per thousand cubic feet for the year ended December 31, 1933.

[fol. 1534] A. I was asked for that, yes.

Q. Will you give us that, please?

A. What date was that, please?

Q. December 31, 1933. Do you have them for December 31, 1932, also, if you can give it to us for both years?

A. Inside of City of Laredo, 75-cent customers, as of January 1, 1934, total 4407.

Q. That is at the 75-cent rate?

A. Seventy-five cent gross rate.

Mr. Bobbitt: What was that number?

A. 4407.

Q. That is January 1, 1934. Do you have it for the previous twelve months?

A. As of January 1, 1933, 4318.

Q. Do you have it for the previous year?

A. I do not.

Mr. Bobbitt: That is all, Mr. Stein.

Mr. Coates: That is all, Mr. Stein.

(Witness excused.)

[fol. 1535] Leon O. Lewis, recalled by the plaintiffs, testified as follows:

Direct examination.

Questions by Mr. Lange:

Q. Mr. Lewis, do you have by classification the meters in use in the City of Laredo for the five-year period as reflected in your operating statement introduced in evidence in this case?

A. Yes, sir; I have.

Q. Just give them to us.

Mr. Coates: To which we object as to the number of meters in use prior to the period under review, namely 1932 and 1933.

The Court: I didn't understand the question. What was it?

Mr. Lange: The number of meters by classification, that is, residential, industrial, and commercial, for each year during the five-year period covered by his operating statement.

Mr. Coates: Our objection goes to all except the last two years.

The Court: The objection is overruled.

Mr. Coates: Note our exception.

A. Before I give this I would like to explain that the classification throughout this entire five-year period has not been the same; in other words, there have been some [fol. 1536] changes in classification, and as I give the figures I will mention the changes.

Did you get this from the Company's records?

A. This is the classification carried on the Company's books. For the year ended June 30, 1929: domestic meters, 4526; semi-industrial, 92; industrial, 18; affiliated companies, 1. These figures I am giving are the average number of meters in service for the year ended as of the date stated. For the year ended June 30, 1930: domestic, 4714; semi-industrial, 100; industrial, 8; affiliated companies, 1. For the year ended June 30, 1931, there was a change of classification at November 1, 1930; the domestic classification was discontinued at that date and residential classification was begun; the semi-industrial classification was discontinued and a commercial classification added; and there was added a government and municipal classification. The number of meters contained in the domestic or residential classification is 4533; the semi-industrial, commercial classification, 224; government and municipal classification, 25; industrial, 8; affiliated companies, 1. For the year ended July 31, 1932, residential, 4287; commercial, 330; government and municipal, 30; industrial, 8; public utility, 2; affiliated companies, 1. During the year ended December 31, 1933, there were some meters taken out of the commercial classification and classified as industrial. The figures for that year, residential, 4176; commercial, 287; government and municipal, 25; industrial, 16; public [fol. 1537] utility, 2.

Q. That covers the five years?

A. Yes, sir.

Q. For the same five-year period as the operating statement heretofore introduced in evidence by you?

A. Yes, sir.

Q. And you have heretofore given us the volumes for this same period, and the total amount in dollars?

A. Yes, sir.

Mr. Lange: That is all.

Mr. Coates: That is all.

(Witness excused.)

R. H. HARGROVE, a witness called by the plaintiffs, having been duly sworn, testified as follows:

Direct examination.

Questions by Mr. Lange:

Q. What is your name?
A. R. H. Hargrove.
Q. Where do you live?
A. Houston, Texas.
Q. What is your business or occupation?
A. I am Vice-President of the United Gas Public Service Company, in charge of Production and Transmission Operations.
Q. Are you here complying with the request and the [fols. 1538-1541] promise made by Mr. Dickerson to furnish certain information that he said he would furnish us?
A. Partially for that purpose.
Q. Well, you are here for that purpose?
A. Yes, sir.
Q. Mr. Dickerson is not here?
A. No, sir.
Q. Have you the information he agreed to furnish us with respect to the salaries inquired about?
A. Yes, sir; I have the information that I understand he agreed to furnish. I was not here when Mr. Dickerson testified.
Q. Have you the salary list?
A. No, sir.
Q. That is what we asked for. Mr. Dickerson said he could and would furnish us the salary list of Electric Bond & Share Company.

* * * * * * *

[fol. 1542] J. V. STRANGE, a witness for Defendant, having been duly sworn, testified as follows:

Direct examination.

Questions by Mr. Coates:

Q. Please state your name.
A. J. B. Strange.
Q. By whom are you now employed, Mr. Strange?
A. By the United Gas Public Service Company.

Q. Will you speak a little bit louder?—In what capacity, Mr. Strange?

A. I am Vice-President of the United Gas Public Service Company, in charge of distribution activities.

Q. In charge of distribution activities?

A. Yes, sir.

Q. For the entire properties of that company and affiliated companies?

A. Yes, sir.

Q. And will you please give a brief and concise statement of your experience?

A. My experience in the utility business started in 1906, when I was first employed in the manufactured gas business by the Portland Gas and Coke Company of Portland, Oregon. That employment continued in the manufactured gas business until 1911, when I took a position with the Pacific Power and Light Company of Portland, Oregon. The Pacific Power and Light Company was engaged in the [fol. 1543] electric, manufactured gas, water and street railway activities. I was first—from 1911 until 1919 with that company I was employed in operating work principally as a District Manager in field operations. In 1919 I was transferred to the general offices as Assistant General Manager, my work having to do largely with commercial activities of the company and its operating problems. In 1924 I went to North Carolina, becoming Vice-President and Operating Manager of the Carolina Power and Light Company, with its head offices in Raleigh, North Carolina. That company engaged in the electric, manufactured gas, street railway, and ice business, and my duties with that company were confined to its commercial work and its operating work. In 1930 I left that company and came to Texas, taking my present position with the United Gas Public Service Company and affiliated companies.

Q. And have you been continuously occupied in performing those duties since that time?

A. I have.

Q. Are there under you as Vice-President in charge of distribution the distribution operations in the city of Laredo, Texas, Mr. Strange?

A. Yes, sir.

Q. And have you acquainted yourself with respect to the distribution system operations with respect to the city of

Laredo as well as other distribution system operations of the company?

[fol. 1544] A. I have.

Q. And since 1930 have you been solely engaged in connection with natural gas?

A. Yes, sir.

Q. Now, are you an engineer, Mr. Strange?

A. No, sir.

Q. Are you an accountant?

A. No, sir.

Q. What do you style yourself as in the public utility business?

A. As an operating man.

Q. Mr. Strange, throughout your experience in the public utility business have you made a study as a practical operating man as to the ways of increasing the consumption of public utility service which the companies that you were then serving were engaged in selling?

A. I think I have.

Q. And have you given a great deal of study to rate structures which will promote the additional use of public utility service, both in the field of electric service and in the gas service, both manufactured and natural gas?

A. I think I have.

Q. Well, now, Mr. Strange, have you found in your twenty-eight years of experience that there is a point at which the reduction of rates will not produce any substantial increase in consumption of the service and below which [fol. 1545] the reduction of rates simply means that much loss in gross revenues?

A. Yes, sir.

Q. Do you feel that the economic point or level to which you have just referred has been reached in Laredo with the rates sometimes referred to as the seventy-five cent rate, which is the rate of seventy-five cents per thousand cubic feet, ten per cent discount for prompt payment of bills, one dollar per month minimum bill?

A. Yes, I think that point has been reached in Laredo.

Q. Why?

Mr. Bobbitt: Pardon me just a second, Your Honor. Could we ask him a few questions on qualifications before you proceed?

Mr. Coates: Why, yes.

Questions by Mr. Fitzhugh:

Q. Mr. Strange, where have you ever made a study of the effect produced by rate reduction on either customer consumption or the number of customers?

A. I have made such an investigation, as far as it was possible to make such an investigation, here in Texas.

Q. What town was that in?

A. Amarillo.

Q. Are the conditions in Amarillo anything comparable to the conditions in Laredo as an operating problem?

A. I think they are comparable to this extent: that the rates were reduced there even more in percentage than the [fol. 1546] reduction we are discussing here in the case of Laredo.

Q. You are familiar with the general territory around Amarillo?

A. Fairly so.

Q. You know, do you not, Mr. Strange, that there is no wood anywhere close to Amarillo?

A. I think perhaps that is true.

Q. You know that there are no coal mines, except for the Colorado fields about two hundred and fifty or three hundred miles away?

A. Well, I don't know exactly the proximity of them.

Q. Well, you know as a fact generally that there are no coal fields close to Amarillo?

A. I am not familiar with that.

Q. Is there any fuel at all that is available to the town of Amarillo except gas or oil or the products of gas and oil?

A. I don't know, Mr. Fitzhugh.

Q. Well, you know as an operating problem, don't you, Mr. Strange, that there are no competitive fuels with gas for heating in Amarillo?

A. No, I don't. I am not sufficiently familiar with what other forms of fuel might be available there.

Q. You know, too, do you not, Mr. Strange, that the conditions of climate that prevail in Amarillo make a very high customer consumption as compared with Laredo?

[fol. 1547] A. Of course, I realize that more gas would be required in Amarillo than in Laredo.

Q. Where you have about a three or four months winter season at Laredo, you have about a six to nine months gas season—winter season at Amarillo, do you not?

A. Yes, but I don't see that that would make any difference in reducing the rates leads to increased consumption. It seems to me that it should be true in the case of Amarillo, as it is contended it would be true in the case of Laredo.

Q. Well, are you willing to have this Court and jury think, Mr. Strange, that a study of any effects produced by a rate reduction in Amarillo would be comparable with a like reduction in the town of Laredo?

A. Yes, sir; I think it is very comparable.

Q. What other towns have you investigated?

A. I have investigated on our own system other towns fairly comparable to Laredo where the rates are higher, and at higher rates the consumption is even greater than it is in Laredo, which has convinced me that within a range of, say, fifty cents a thousand to a dollar a thousand natural gas still is so cheap that those who can afford to use it at any reasonable price would do so.

Q. What other towns are you referring to now?

A. I am referring particularly to Robstown and Sinton, which are in approximately the same latitude as Laredo and seem to be the most comparable towns in which our company operates.

[fol. 1548] Q. What is the population of those two towns?

A. Well, the population is less than it is in Laredo; I can't tell you just what it is.

Q. About fifteen hundred for each?

A. No, it is much more than that, I am sure.

Q. Can you tell approximately what the population is?

A. I think in the two towns the population is between eight and ten thousand people.

Q. You mean the two together?

A. Yes, sir.

Q. About four thousand for each?

A. About four thousand in Sinton and about six thousand in Robstown.

[fol. 1549] Q. Now, at Sinton, Mr. Strange, what are the conditions as to competitive fuel?

A. I think they are approximately the same as in Laredo.

Q. Are there available anywhere near Sinton supplies for wood?

A. I think just practically the same as would be found at Laredo.

Q. Is that true of Robstown also?

A. Yes, sir.

Q. Now, Mr. Strange, doubtless you recorded all the results of your study of both the towns of Robstown and Sinton, as well as that of Amarillo—is that true?

A. Sufficiently so that I could express the——

Q. Have you any graphs or records whatsoever of those studies you made?

A. I have records as to the sales of gas to residential customers in each of these towns—Laredo, Sinton, and Robstown, and——

Q. Do you have the same for Amarillo?

A. And the average rate paid by residential customers in each of the towns.

Q. What other towns have you studied besides those three?

A. I think that is about all that I have studied recently.

Q. Now, outside of Amarillo, Mr. Strange, you have not studied any town at all where there has been a rate reduc-
[fol. 1550] tion, have you?

A. I thought Amarillo was the very best example that could be taken, because the reduction there was comparable to the reduction contemplated here, and was made in recent years.

Q. Now, answer my question, please, sir.

A. I beg pardon.

Q. I say answer my question, please, sir.

A. Will you——

Mr. Fitzhugh: Read the question, will you, please?

(Thereupon the Reporter read the last preceding question, as follows: "Q. Now, outside of Amarillo, Mr. Strange, you have not studied any town at all where there has been a rate reduction, have you?")

A. I have not, because I don't know of any other town where a rate reduction has been made in Texas.

Mr. Fitzhugh: Now, we submit, may it please the Court, that this witness is not qualified. He has not shown himself qualified by any studies that he has made of towns that are comparable with Laredo as to population, as to customer consumption, as to the general conditions as to

competing fuels, or any of the other elements that would properly be taken into consideration in expressing an opin-
[fol. 1551] ion as to what would be the probable effect of a rate reduction or a rate increase in Laredo.

The Court: The Court holds he is qualified. Go ahead.

Q. Mr. Strange, in your studies in connection with Amarillo——

(Counsel confer with Court, out of hearing of jury.)

The Court: Go ahead, gentlemen; I have ruled on the objection.

Q. Mr. Strange, in making your *duties* in connection with Amarillo, have you informed yourself and taken into account the difference in the climatic conditions which prevail in Amarillo, Texas, which is in the northernmost part of the State, as compared with the climatic conditions in Laredo, which is one of the most southerly towns in the State?

A. I have.

Q. And have you informed yourself with respect to the degrees of cold or what you term in the gas business the temperature at which the householder will normally use gas for house heating, in respect to Amarillo and in respect to Laredo?

A. I have.

Mr. Fitzhugh: May we have an exception to the Court's ruling on our objection?

The Court: Yes, sir.

[fol. 1552] Q. Now, Mr. Strange, based on your studies which you have outlined, both in respect to Amarillo and in respect to Sinton and Robstown, where, as I understand you, both higher rates and higher consumption than in Laredo prevail,—what, in your judgment, would be the effect, in respect to increased consumption by existing consumers, of reducing the residential rate from 67½ cents, net, to 55 cents, net?

A. I think such a reduction would simply mean that the customers would make the saving represented by the difference, and that the company would suffer the loss in its revenues, and that no appreciable amount of increased gas consumption would ensue, nor would additional customers come on the line by reason of this reduction?

Mr. Fitzhugh: May our objection go to all this testimony?

The Court: Yes, sir.

Q. Do you know when the residential rate was reduced in Amarillo?

A. It became effective in April, 1931.

Q. Do you know the rate that prevailed prior to that reduction?

A. I know what the average rate paid by domestic customers in Laredo was.

[fol. 1553] Q. You mean in Amarillo?

A. In Amarillo.

Q. And do you know——

A. And I might add that that classification of domestic customers includes all customers other than those few who were getting gas on the industrial rate.

Q. That is, the domestic classification as has been described here to include what is sometimes referred to as small commercial consumers?

A. Yes, sir.

Q. And do you know what the percentage reduction in rate was in 1931?

A. As I have said, the rates were reduced in 1931. Taking the average price paid per M. C. F. by all domestic customers in 1930, the first full year before the reduction became effective, and taking the same figure for the year 1932, the first full year after the rate reduction became effective, it shows that the rates were reduced 24.52 per cent.

Q. Now, do you know the percentage loss in revenues brought about by this 24.52 per cent reduction in the domestic rate, as reflected by a comparison between the first full year or the last full year in which the higher rate was in effect, and the first full year in which the reduced rate was in effect?

A. There was a reduction—a corresponding reduction in [fol. 1554] revenues of 23.34 per cent.

Q. Mr. Strange, you heard Mayor Martin's testimony as to the twelve or fifteen hundred additional customers that he would expect the company to add at the 55 cent rate?

A. Yes, sir.

Q. And you likewise heard his testimony with respect to

the character of use which he, knowing these people, would expect them to make of the gas?

A. Yes, sir.

Q. Based on your experience, Mr. Strange, and your knowledge of average residential consumptions in Laredo, what annual consumption of gas would you expect an installation of this class to show on an annual basis—that is, an installation or a small house equipped with a gas hot plate and a four dollar space heater, and one to two gas lights, as compared with the average residential consumption in Laredo?

A. I think such a customer would consume on an average approximately forty per cent of as much gas as is now being consumed by the present average residential customer in Laredo.

Q. Now, have you made any computation to show the saving to such a consumer at the rate of 55 cents, net, ten per cent penalty for non-payment within ten days, and a dollar minimum bill, as compared with the 75 cent rate, ten per cent discount and dollar minimum bill?

[fol. 1555] A. I have.

Q. Please state the result of that computation.

A. I have said that I thought the type of customer such as Mayor Martin testified to, namely, one using a little hot-plate, and one or two gas jets for lighting, and a small heater, would use approximately forty per cent of our present average consumption.

Q. Residential?

A. Residential consumption. Our average residential consumption for 1933 from our present customers in Laredo was 37,000 cubic feet.

Q. Exactly or approximately?

A. Approximately 37,000 cubic feet.

Q. That is the nearest whole thousand, is it?

A. Yes, sir. I think——

Q. And that is the annual average?

A. That is the annual average—that is the average consumption for '33—1933. I think it would be liberal to predict that a customer of this type would use as much as 15,000 cubic feet per annum, because obviously during the month when heating—room heating is not required, using just a plate and a little gas jet, not more than 1,000 cubic

— of gas would be used. Our present average consumption in the summer months in Laredo falls below 2,000 cubic feet from those customers, many of whom are using gas [fol. 1556] for purposes that could not be used by this type of customers. Now, assuming that this type of customer would use 1,000 feet of gas for nine months in the year, and then would use 2,000 cubic feet in the remaining three months of the year.

Q. That is, the heating season?

A. In the heating season, thus accounting for the annual consumption of 15,000 cubic feet, and computing those monthly consumptions at the rate of 55 cents, net, with a dollar minimum, and the present 67½ cent rate, net, with a dollar minimum, we find that the saving as against the two rates would amount to seventy-five cents in twelve months, or approximately six cents a month. I am certain that those customers who can not afford to use gas now would not be induced to put it in because of a saving of six cents per month.

Q. Would or would not be induced to put it in?

A. Would not be induced.

Q. Now, Mr. Strange, I believe the term which is sometimes used in respect to computations of rates—just a minimum monthly bill—that is, the revenues to be derived at those rates, is to state the point at which the rates cross—isn't that the term used?

A. Yes, sir.

Q. And what do you mean by the term "the point at which the rates cross"?

[fol. 1557] A. There is a point where the 55 cent, net, rate would result in a lower rate, depending upon the consumption, than the present 67½ cent rate. That point of consumption is approximately 1500 cubic feet—I believe, to be exact, 1480 cubic feet; so that any customer using less than 1480 cubic feet per month would not be benefited by the 55 cent, net, rate.

Q. Why not?

A. Because the minimum of one dollar would result in the same charge as the present rate.

Q. Under each rate?

A. Under each rate.

Mr. Coates: I believe that is all, Mr. Strange.

Cross-examination.

Questions by Mr. Bobbitt:

Q. If I understand your conclusion and opinion about these users of small amounts of gas, you have just testified about, they are not profitable or desired customers by the gas company?

A. I think customers of that type would be a burden on the present customers.

Q. I say they are not desired by the company.

A. We desire all customers, but because of the investment that would be required to serve them, the increased operating expenses that would be incurred, and the very small [fol. 1558] revenue that would be obtained, it would be a burden on the present customers.

Q. And, as I say, that group of customers, then, are not desired by the gas company?

A. For the reasons I have stated, yes.

Q. Well, that is true—they are not desired. Now, of course, your testimony here, Mr. Strange, is your opinion and your conclusions reached and are based upon the reasons you have given us?

A. Based on my experience and my study of the situation.

Q. Yes, sir, and the reasons you have given us there at the local—at Laredo, where you testified about?

A. Yes, sir.

Q. That is just your opinion, after all, isn't it?

A. It is my opinion, confirmed by my experience and my study——

Q. I understand.

A. —of the gas business, Mr. Bobbitt.

Q. Yes, sir, I say that. And based upon the experience you have testified about here in Texas?

A. Based upon my experience and my study of the gas business.

Q. You have never tried a reduction of rates, have you, as to whether or not it would bring increased consumption or increased number of customers?

A. I think we have made reductions and have studied the effect of them.

[fol. 1559] Q. I say have you tried the reduction of rates in Laredo, or Robstown, or Sinton, where you testified about?

A. No, because I——

Q. I didn't ask you why. You haven't tried any rate reductions, have you?

A. No, sir.

Q. And you don't serve Amarillo, do you?

A. No, sir.

Q. You don't know anything about the situation at Amarillo, except your investigations and what you say other folks have told you about the conditions there; in other words, you don't operate there, and you have never had any experience in the City of Amarillo in the gas business.

A. I haven't operated in Laredo—in Amarillo.

Q. How many cities does your concern serve in Texas, Mr. Strange?

A. We serve 115 towns and cities in the State of Texas.

Q. Yes, sir. You have never tried a rate reduction in any of those cities, as to whether it would bring increased revenues through increased volume of sales or increased number of customers?

A. No, because our gas rates are already very low, Mr. Bobbitt.

Q. Yes, sir. I didn't ask you why—whether they are high or low; that is a matter of opinion, of course.

[fol. 1560] A. I thought you would like to have the reason.

Q. I will ask you, Mr. Strange, thank you, if I desire the reason. Well, now, you have never tried reducing the rates in the City of Laredo for industrial purposes, as to whether that would bring increased customers or increased consumption, have you?

A. Yes, sir.

Q. When?

A. Well, notably in the case of the American Service Company—the ice company.

Q. You reduced that to seventeen cents, didn't you?

A. As soon as their contract expired the rate was reduced materially, and the consumption did not increase as the result of that fact.

Q. That reduction came, of course, during a period, as has been testified here, during a period of depression, didn't it—general depression?

A. During the last two years.

Q. Yes, sir. Mr. Strange, did you have an increase in your business in Nuevo Laredo when you sent gas through

the City of Laredo mains over to the City of Nuevo Laredo and reduced your price there?

Mr. Coates: Well, if the Court please, that is based on an erroneous assumption, in that the record reflects that this company does not operate in the City of Laredo. It [fol. 1561] sells gas to that company at the bridgehead.

The Court: Yes, sir; that was reflected by the record, as I recall it.

Q. Well, you reduced, did you not, Mr. Strange, the price of gas at the City Gate in Laredo, Texas, for delivery to the company in Nuevo Laredo, México?

A. We consented to that company reducing its rates slightly.

Q. Yes, sir.

A. And as the result of that our revenue from that source was reduced slightly.

[fol. 1562] Q. Didn't you have an increased consumption —didn't an increased consumption result in Nuevo Laredo by reason of your reduction to the Nuevo Laredo Company you just testified about?

A. Let me have that—I didn't understand your question as it started, Mr. Bobbitt.

Q. Read it please. (Question is read.)

A. No, sir.

Q. I understood you to say that you had allowed or that there had been a slight decrease in your price for delivery from the city of Laredo to Nuevo Laredo?

A. Yes.

Q. When did that reduction happen?

A. I think it was in 1932.

Q. Wasn't that at the time the soap factory and the ice factory in Nuevo Laredo quit using oil and came back to using natural gas?

A. The soap factory had been using gas previously at even higher rates.

Q. 25 cents a thousand, wasn't it?

A. Well, they were buying their gas from the other company, and I don't know what their rates were.

Q. Well, it was considerably higher than it is now?

A. I believe so.

Q. And when they reduced the rates, they went back from oil to gas, didn't they?

A. I think they had used oil only during the time they [fol. 1563] were negotiating for a revised rate from that company over there, but the result of it is that they are using much less gas today than they were formerly using at the higher rates.

Q. But when they reduced the price of gas to them, Mr. Strange, when they reduced the price of gas from 25 cents a thousand or whatever it was, down to 14 cents a thousand, or whatever the reduction amounted to, they started using gas again and ceased using oil for fuel purposes, didn't they?

A. I think that they did.

Q. And when they quit using oil and went back to using gas, that brought about an increased sale of gas didn't it, to those concerns?

A. Against what it was immediately previous, that is true; but as against what it was before they quit using gas, their consumption was much less because their business, I understand, does not have the requirements for gas as formerly.

Q. That is, business is not as good in 1932 and 1933 as in prior years

A. I presume that is true.

Q. You know that is true, don't you?

A. I know it is true generally and I presume it is true of those customers in Nuevo Laredo.

Q. Did you try a reduction at Mr. Haussman's plant in Laredo?

A. I think we offered Mr. Haussman rates as low as gas could possibly be supplied, but notwithstanding that fact, he preferred to go to oil because of his decision to go into the oil refining business.

[fol. 1564] Q. Didn't he agree and now stand ready to sign a contract with you for gas at 17 cents a thousand cubic feet for his packing plant at Laredo?

A. He might be willing to do so now, Mr. Bobbitt, because of the fact that oil has advanced to the point——

Q. I am not asking you the reason, but asking you if that is not a standing tender he has made to sign a contract to take gas at 17 cents a thousand cubic feet?

A. I have never heard of such a tender.

Q. Would you accept it if it were tendered?

A. We would give him the regular rates we give to the same industries wherever we serve them in the general area, including Laredo.

Q. And what are those regular rates?

A. They are fuel oil rates that I could not describe to you exactly, without knowing what his demands would be.

Q. Could you describe it practically or approximately?

A. They are rates based on the current price of fuel oil, and as fuel oil advances the rate advances to a certain point, and as it decreases the rate decreases within certain limits. That is the type of rate we would be willing to give to Mr. Haussman or any other customer.

Q. What does that amount to, as to the price per thousand cubic feet. How many cents per thousand cubic feet does that amount to, approximately?

A. I could answer that only if you were to tell me what his [fol. 1565] monthly consumption would be, or his annual consumption.

Q. Well, if it is 10,000 cubic feet a month, or a million cubic feet a month, what would it amount to in cents per cubic foot?

A. I will have to get the rate schedules and compute that, Mr. Bobbitt? I could not tell you off hand, because it requires some computation to arrive at the exact price.

Q. You have told us, Mr. Strange, of your large experience in the gas business as a practical operating man. I want to ask you this question—as a practical operating man and as a practical proposition—and using an approximate price if I may do so—your concern is serving gas to the Haussman packing company now in the city of Laredo?

A. No. I believe we are not serving them now.

Q. Well, you are serving them in their office, to say the least of it?

A. Perhaps so.

Q. Well, you are not furnishing him any gas for industrial purposes at the present time?

A. That is my understanding.

Q. But you are serving the Central Power & Light Company?

A. No, I believe we are not serving the Central Power & Light Company.

Q. Well, the record, I believe, shows you are.

A. Excepting for a little gas for stand-by purposes.

Q. For stand-by purposes, and you are hooked up to them, and as I understand, the record here shows each month you

[fol. 1566] are now serving a small amount of gas to the Central Power & Light Company in Laredo.

A. I believe so.

Q. However small that amount may be.

A. I believe so.

Q. Well, as a practical operating man, Mr. Strange, you have established and are maintaining facilities for transporting gas from the fields, in the Carolina-Texas field to the City of Laredo, and through the mains there to the burner of the Central Power & Light Company's plant; that is correct, is it not?

A. Yes.

Q. And you pay for the gas in the field, four or five cents, whatever it may be, and you transport that gas through these mains and these facilities that are established and must be maintained, as I understand, to meet your residential and other requirements in the city of Laredo. That is true, is it not?

A. We have to maintain our facilities to supply our customers in Laredo, yes.

Q. And the facilities through which you are transporting gas and serving your customers in the City of Laredo, are of much larger capacity than necessary for the present purposes?

A. I don't know that that is true.

Q. Well, don't you know that you could carry a larger or transport a much larger volume of gas through the existing [fol. 1567] facilities from the Carolina-Texas field to the City of Laredo than you are now carrying?

A. I do not know that. It may be we could not carry more. I don't know that, Mr. Bobbitt.

Q. You don't know?

A. No, that is an operating problem.

Q. Well, you are an operating man.

Mr. Coates: Let him answer the question.

A. That is an operating problem of the transmission and pipe line system and with which I am not connected in an operating capacity at all.

Q. Just what are you connected with?

A. With the distribution system.

Q. You don't know about that, then?

A. I don't have any idea what the demand on those lines

may be or what their capacities or anything of the sort may be.

Q. Let me ask you this question; as a practical operating man of many years experience in the gas production and distribution business, as I understand it, Mr. Strange, and excluding the price of gas in the Carolina-Texas field and taking into account all costs incurred by the company in transporting a million cubic feet of gas a day from that field to the burner tip of the Central Power & Light Company in the city of Laredo for delivery there, say on the 25th day of March, 1934, what additional, or what costs per thousand cubic feet would the company incur by reason of the transportation and delivery of that gas?

[fol. 1568] Mr. Coates: Just a minute. To which we object because the proper predicate has not been laid for this hypothetical question, and for the further reason that it is based on an assumption that the company could lawfully and would discriminate as between this sale and sales to other customers by selling such gas on a purely increment basis and without taking into account a fair apportionment of the operating expenses necessarily incurred, and the total over-all operating expenses necessarily incurred in connection with the transportation of this gas, and for the further reason that it is irrelevant, immaterial and meaningless in that the transportation of a million feet of gas on a particular day and the cost thereof would serve as no guide and no indication of what it would be on the day following or the day preceding and because as a practical proposition contracts are never made for the transportation of a fixed quantity of gas for a particular day only, but only for a contract period extending over a reasonable period of time.

The Court: The objection is overruled.

Mr. Coates: Note our exception.

Q. Now, will you tell us? I am not asking you, Mr. Strange, to go into any detail or down to a lot of fine points; just give us as a practical operating man of long years of experience your opinion of what that cost would be.

A. I can not answer that question, Mr. Bobbitt. In the first place, I am not an engineer, and it is a question that [fol. 1569] would involve an engineering calculation——

Q. Did you ever ask your engineers——

Mr. Coates: Wait a minute and let him answer your question.

Q. All right.

A. —before it could be answered, it would involve an engineering calculation, based upon many factors which you have not stated in your question.

Q. Do you know what those factors are?

A. Well, I think I know some of them.

Q. Well, tell us all the necessary factors, if you will, that you should take into account.

A. I think one would have to know the capacity of the pipe line and its present load.

Q. Do you know that?

A. No, I do not.

Q. What is the next factor?

A. You would have to know the characteristics at which the customers would use the service, and what the deliveries would be per hour and per day.

Q. You don't know that?

A. I said I knew some of them.

Q. You don't know them all.

A. I don't profess to know.

Q. Can you give us approximately and practically—would it cost you five cents per thousand cubic feet additional?

[fol. 1570] A. I couldn't say.

Q. Haven't you got any idea about——

The Court: I think the witness has answered fully that he could not answer the question.

Mr. Coates: Without telling Mr. Bobbitt what the professor told me about my question.

Q. Who is in your organization, Mr. Strange, who could tell us about that?

A. Well, I presume if you could supply all the information that is necessary——

Q. Well, you have the information. Haven't you got all the information about that business? That is the gas business I am trying to find out something about.

A. Well, I don't know who could answer the question.

Q. All right.

A. You might get Mr. Elrod——

Q. What was that?

A. I was just thinking you have an engineer here who might answer.

Q. Yes, and I believe you have several of them here, haven't you, in charge of the company's business and properties?

The Court: Let's go ahead with the case, gentlemen.

Q. Mr. Strange, what is the average, if you know—what is the average monthly consumption per customer for residential customers in the city of Laredo?

A. The average monthly consumption?

Q. Yes.

[fol. 1571] A. It would be one-twelfth of 37, for 1933.

Q. Well, what is that?

A. About 3,000.

Q. 3,000 cubic feet per month. Is that it?

A. That would be the average per month. Of course that is averaging in the winter months, when more gas is used, with the summer months when much less is used.

Q. How much does this volume of gas cost the residential cutomer under the 75 cent rate?

The Court: Do you mean by that, what is the average price per thousand cubic feet paid by the residential customer for that gas?

Q. Under the 75 cent rate, yes.

A. The average price paid by residential customers in Laredo during 1933, for all gas requirements, was $26.69.

Q. For residential purposes?

A. Yes.

The Court: Is that per year?

A. Yes, during the year 1933.

Q. What was it during 1932?

A. I haven't the figures for 1932, Mr. Bobbitt; but it was approximately the same.

Q. And you haven't got it for 1931. Now, Mr. Strange, you told us you are not an engineer and could not tell us about these things; what are your duties with the company?

A. I have supervision over all the operations of our distribution properties.

[fol. 1572] Q. You have nothing to do with the transmission?

A. No, sir.

Q. What do you mean by supervision over those distribution properties in Laredo?

A. Well, I and my assistants have general supervision of all of the activities of our various distribution organizations in the operating work.

Q. They work under your direction?

A. Yes.

Q. Are these sponsors that are sent there by Electric Bond & Share Company under your supervision?

A. No, sir. There is only one sponsor who visits our properties from the Electric Bond & Share, and he is not under my supervision.

Q. Then he is under who's supervision?

A. I presume under the Bond & Share.

Q. Don't you know?

A. No.

Q. What does he sponsor—what does he supervise?

A. He confers with the officials of the company as to their operating and financial problems.

Q. Is he the supervisor of the budget?

A. I wouldn't say he is supervisor of the budget; he certainly has much to do with the budget.

Q. You heard Mr. Dickerson's testimony, and I understood him to testify there were seven or eight sponsors, [fol. 1573] and that there was a sponsor of the budget?

A. No. I am talking about Mr. Dickerson, who is the one whom we term sponsor.

Q. Is he sponsor of the budget?

A. He is sponsor of the operations of the entire United Gas System.

Q. Have you got a sponsor of transmission and production?

A. No, not that I know of.

Q. And a sponsor of distribution?

A. No, not that I know of.

Q. You would know about it if he was there?

A. Yes.

Q. He is the one sponsor you come in contact with?

A. Yes, the only one that I come in contact with.

Q. Is Mr. Dickerson sponsor of rates?

A. He is just sponsor of the general operating and financial problems of the United Gas System.

Q. I believe you testified that the percentage of reduction of the rates in the city of Amarillo was 24.52, if you remember the figure, in 1931?

A. 24.52 percent.

Q. And the reduction in revenues was 23 plus percent?

A. 23.34 percent.

Q. Well now, the reduction in the Laredo rate, as ordered by the Commission, from a net rate of 67½ cents to a net rate of 55 cents, that would amount to an 18.5 percent reduction, would it not?

[fol. 1574] A. Yes, to those customers—that is, the rate itself would, yes.

Mr. Coates: Let's see—that is 55 as it is to 67½?

A. 18.5 per cent, I believe it will figure out.

Mr. Coates: Do you figure that down from 67½, or up from 55?

The Court: You had better figure it again, gentlemen.

Mr. Bobbitt: We can figure it if we want it.

A. Well, it is a reduction of 12½ cents, off of the 67½ cents.

Q. Mr. Strange, you testified, I believe, that you were vice president and manager of the United Gas Public Service Company?

A. Vice President.

Q. And affiliated companies?

A. Yes.

Q. What affiliated companies do you serve, along with the United Gas Public Service Company?

A. Well, there are some subsidiary companies of the United Gas Public Service Company.

Q. What are they, the ones that you serve as vice president, or in any other capacity?

A. The ones with which we have distribution operations are the Northern Texas Utilities Company, the Houston Gulf Gas Company, the Southern Gas Utilities Company, and the Houston Gas & Fuel Company, which is an indirect subsidiary. I believe I have named all of them.

Q. Any of them operating down in the Laredo district?

A. I believe not.

[fols. 1575-1587] Mr. Coates: Are those Texas only?

A. Yes, they are Texas only, and the ones in which we have distribution operations.

Q. Well, are you serving others, not in Texas?

A. I think there is one subsidiary company not in Texas, the Southern Gas & Fuel Company.

Q. You serve that company?

A. That is a subsidiary company, but it has no distribution operations.

Q. You serve all those companies?

A. They are all connected, as part of the United Gas System.

Q. Are you an officer in the United Gas System?

A. The United Gas System as such is just a name, Mr. Bobbitt. There are no officers, of that, as the United Gas System.

Q. It is not a corporation?

A. No, sir.

Q. What is it?

A. It is just a name that is given to the group of companies.

Q. I think that is all for the present, your Honor.

The Court: we will take a recess for a few minutes.

(Whereupon, at 11:10 A. M. a recess was had in such cause until 11:20 A. M.)

* * * * * * * *

[fol. 1588] Testimony of H. E. Womack

March 28, 1934

Cross-examination.

Questions by Mr. Bobbitt:

Q. The Commission in its order here amortized this Regulatory Commission Expense over a ten-year period, didn't it?

A. I don't recall that it did.

Q. You say that one-tenth of that Regulatory Commission Expense for the Laredo hearing was included for the period that you stated?

A. No; I didn't say that. I said there was less than one-tenth of the cost that the Company has incurred in connection with this Laredo Rate Case included in either the cal-

endar year 1932 or the calendar year 1933,—in the exhibits [fol. 1589] I have introduced.

Q. How much less than ten per cent?

A. Well, I have not included the same amount in each of the two years; but less than eight per cent that I have included in the year 1933.

Q. What is the amount in dollars?

A. That I have included?

Q. Yes; 1932 and 1933?

A. $3,154.10.

Q. What year?

A. In the year 1933. I don't have that exact figure for the year 1932 with me here.

Q. Do you know approximately what it is?

A. From memory, it is about seventeen hundred dollars.

Q. And that is about one-eighth, you say?

A. No; the first figure, for the year 1933, is about one-eighth.

Q. You have the total expense there, haven't you?

A. Yes.

Q. What is the total?

A. That is exclusive of any part of the year 1934, $44,511.19.

Q. $44511.19. That is the amount the Company has charged on its books to operating expenses; is that right?

A. Well, the Company has charged that amount on its books as Operating Expenses, yes.

Q. As the result of expenses incurred in the Railroad Commission hearing in this proceeding; is that right?

[fol. 1590] A. No; that is not exactly right.

Q. What is that?

A. The Company has charged that amount on its books as the cost of the Laredo Rate Case for the calendar years 1932 and 1933. Now, the Commission hearing was before the year 1933

Q. It is the result of that hearing, isn't it—expense by reason of that hearing, wasn't it?

A. Well, it is expense incurred by reason of the rate reduction ordinance of the City of Laredo.

Q. Well, that is what this is all about.

A. The City is trying to get a reduced rate.

Q. The City is trying to get a reduced rate?

A. Yes.

Q. You have spent this much, $44,511.19, trying to keep them from getting it?

A. Well, the Company has spent that much in an endeavor to at least maintain the present rates.

Q. You charged that all to operating expenses?

A. Not to the City of Laredo.

Q. Whom did you charge it to?

A. That is distributed, and the City of Laredo has paid a part of it.

Q. What part of it?

A. I just told you, for the year 1933——

Q. You mean to tell me this $44,511.19 is not charged on the books in a manner and form to operating expenses to [fol. 1591] get it back from the Laredo rate payers?

A. Yes; I mean to tell you that very thing. That is charged on the Company's books, but the Company does not keep its operating expense accounts by towns.

Q. But you expect to get this forty-four thousand dollars you have spent on this rate case back out of the rate-payers of Laredo, don't you?

A. No, sir.

Q. Whom do you expect to get it back from, then?

A. That is a general expense that has been distributed over the different sections of accounts, and I have included a part of them, as well as a part of other costs, as applying against the City of Laredo.

Q. Well, have you charged this expense in the Laredo rate case to any other city?

A. No; I have not broken it by cities, because the Company does not keep its accounts by separate towns.

Q. Mr. Womack, I am not an accountant as you well know, but isn't it a fact that this $44,511.19 charged on your books to operating Expenses incurred by reason of the Laredo Rate Case, do you expect to get that much from that community?

A. No, sir; we don't expect to do so.

Q. Where do you expect to get that back from?

A. That, along with other items, is distributed to the different districts, and to the different towns, Laredo gettins its proportionate part of the total.

[fol. 1592] Q. Wasn't it all incurred by reason of this proceeding down there in Laredo?

A. It was all incurred in connection with the controversy over rates.

Q. At Laredo?

A. At Laredo.

Q. Are you charging any other community for that expense?

The Court: I don't see how it can be answered any more positively.

Mr. Bobbitt: I don't understand it, Your Honor.

The Court: Well, then state it again.

Mr. Coates: We submit that the witness has stated that these were charged as operating expenses. Now, the operating expenses of the Company are not charged to any particular person. You don't try to collect them back out of any particular person. They are simply expenses incurred in connection with the operations of the Company.

Mr. Bobbitt: Are you testifying?

Mr. Coates: No. I am laying a predicate for my objection. We object to the question because it is based on an erroneous legal conception that operating expenses are charged to some particular community or some particular set of consumers.

The Court: Mr. Bobbitt says he does not understand it. Let the witness state it again.

Mr. Bobbitt: Yes, let me ask him the question.

[fol. 1593] Q. This $44,511.19, as I understand it, was incurred, according to your testimony, as the result of the effort on the part of the City of Laredo to reduce the gas rates there in that city?

A. It was incurred in order that the Company might attempt to maintain at least its present rates there in the City of Laredo.

Q. And if that controversy had not arisen, or if the City had not undertaken to lower the rates, none of this expense would have been incurred?

A. That is correct.

Q. That is correct. It is incurred solely by reason of that effort of the City within the City of Laredo? Is that correct?

A. The Company is attempting to maintain its present rates, at least.

Q. There in the City of Laredo?

A. There in the City of Laredo.

Q. Now, I am asking you as an accounting witness and as an accountant, why do you charge that expense to any

other community, or any portion of it, if you have so charged it?

A. Well, I have not.

Q. Then it is all charged to Laredo?

A. No, sir. I stated that the Company does not keep its accounts separated as among all the towns that it has. The cost of such an accounting system would absolutely be [fol. 1594] prohibitive. Now, when an apportionment or distribution of expense is made to a particular town, as I did make to the town of Laredo, a part of this cost is included in that expense. Now, that part for the year 1933 was the figure I mentioned a while ago—I have forgotten what it was.

The Court: All right, now, gentlemen.

Q. Why do you charge any portion of that expense to any other city?

The Court: He has told you twice he charged no portion of it to any other city.

Q. Yet it is not paid by the City of Laredo rate-payers, as I understand it?

Mr. Coates: We object, because that is based on an erroneous legal conception. The operating expenses are paid by the Company.

Mr. Bobbitt: I am not talking about erroneous legal conceptions——

The Court: I will sustain the objection; the witness has answered.

Q. Are any part of the legal expenses shown in your Exhibit due to the Laredo rate case?

A. Yes.

Q. How much?

A. I can't tell you offhand.

Q. Can you give us an approximation?

A. I cannot do that. I will have to work it up for you. [fols. 1595-1597] The reason I can't do it is because I have made a distribution from the Company down to the districts, from the districts down to the areas, from the areas down to the distribution systems, and from distribution systems to the City of Laredo. Those all carry percentage figures with them.

* * * * * * * * *

[fol. 1598] Friday, March 30, 1934.

Morning Session: 9:00 A. M.

The Court: Gentlemen, are you ready to begin now?

Mr. Bobbitt: Yes, sir. We want to piece in this testimony and furnish the information that was requested.

The Court: All right.

HENRY E. ELROD, a witness for Plaintiffs, was recalled and testified as follows:

Direct examination.

Questions by Mr. Lange:

Q. Mr. Elrod, you were requested several days ago by Mr. Coates to calculate the difference, if any, that would appear in your Exhibit 9 in connection with the Oilton-Mirando City line Have you prepared a calculation to that effect?

A. I have.

Q. Do you have it with you?

A. Yes, sir.

Q. Just explain now the nature of the correction that you have made.

[fol. 1599] A. Sixty-eight and eighteen hundredths per cent of the gas flowing through Laredo from the Carolina-Texas field, assuming that all gas is coming from that field and none through the Jennings-Pescadito line, 68.18 per cent of the total volume will be delivered at Aguilares Junction.

Mr. Bobbitt: This is Aguilares Junction. (Indicating on Map.)

A. No; Aguilares Junction is at the bottom of the point where your pencil is. The ratio of volume os gas delivered at Aguilares Junction for inside the city of Laredo is 68.18 per cent as just stated. From that point on there will be a lesser volume of gas by 3.78 per cent to be delivered to the Laredo city gate for inside and outside the city; and the ratio of volume of gas delivered at Laredo city gate for inside and outside is 70.85 per cent. The proportion of transmission properties allowable to Laredo is as follows: Carolina-Texas, Aguilares Junction section, $92,127.00, or 68.18 per cent of $62,812.00. Aguilares Junction to Laredo section, $267,001.00; 70.85 per cent is $189,170.00. The total, $359,128.00, divided into the lesser total, $251,-

982.00, gives a weighted average per cent for allocation of transmission properties of 70.16 per cent. That percentage used in the allocation of both properties, transmission and distribution, would be as follows: Transmission properties, total appraised value new, $359,128.00, times 70.16 [fol. 1600] per cent equals $251,982.00. Distribution properties, $602,258.00 new, $575,616.00 allocable to Laredo, gives a total of $961,386.00. For the unallocable new appraised value, $827,598.00; for the allocated appraised new value, or a ratio of 86.08 per cent, which is the weighted average per cent for allocation of both or the combined properties.

Q. That portion of your explanation appears on the corrected sheet marked A-1; is that right?

A. Yes.

Q. Turn to B-1 of the corrected sheet.

A. That is a general summary and allocation comparable with—pardon me.

Q. Now, then, applying the corrections you have made, what is the net difference between the former figures as they appear on Page C-1, corrected sheet, as compared with the final figures as contained in Plaintiffs' Exhibit 9, page C?

A. $7,786.00.

Q. More than the figures reflected in Plaintiffs' Exhibit 9, page C?

A. Yes.

Mr. Lange: For the purpose of the record we want now to introduce this corrected sheet so it can be identified by the stenographer.

Mr. Coates: Of course, the same objection that we had to the entire exhibit likewise goes to this.

[fol. 1601] The Court: You have the same objection to the entire exhibit?

Mr. Coates: Yes, sir.

(Thereupon the instrument above referred to was received in evidence and marked as Plaintiffs' Exhibit No. 12. This exhibit appears in Volume of Exhibits III, page 1983.)

Q. Now, in making this correction, just explain why you proceeded as you did.

A. Well, there were two elements, I believe, to be considered: one, the correction of allocation. I had originally

allocated the properties on the basis of the total transmission system from the Carolina-Tex field to Laredo city gate, excluding all gas to the outside of the city, in one lump, without reference to where it was excluded. The portion of the line, or rather the section of the line from Aguilares Junction to Mirando City, Misko and Oilton——

Q. Appearing on the map from Aguilares Junction, proceeding in a southeasterly——

A. A southeasterly direction.

Q. To Mirando City and then up to Oilton?

A. Yes. It seemed, when my attention was called to the matter, that it would be more fair, or would be fair to allocate the transmission properties on the basis of the points to which the gas was delivered, as at Aguilares Junction, the 13.5 mile stretch of pipe line between the [fol. 1602] Carolina-Tex. field and Aguilares Junction carrying the total gas and dropping 3.78 per cent at Aguilares Junction; the balance of the transmission system would not, of course, have to carry that 3.78 per cent. Consequently, that should not have been included in the allocation of those properties which extended westward from Aguilares Junction to the Laredo city gate. Now, in the matter of the correction of Workmen's Compensation, Mr. Coates called my attention to the fact that the manual classification stipulated a rate of $6.18, per hundred dollars value of payroll for the construction of distribution lines. He did not tell me at that time, however, that there was a credit of 12.9 per cent on that rate; so I have gotten the history of the rate and I have deducted the 12.9 per cent, from the 6.18 per cent, and I have also deducted the 12.9 per cent from the 8.31 per cent rate used in the transmission lines. I have also deducted a cost new sum of $616.29 on page 35 of the transmission section for an item allocable to the Jennings-Pescadito line, which I omitted from the appraisal; this item inadvertently crept in and was not excluded, so I excluded that item as well as the 12.9 per cent credit on the insurance rate. As far as the situation is concerned, with the exception of that portion [fols. 1603-1605] of the properties in the distribution system which were built in 1922 or 1923 as a lump under the head of Pavements, amounting to—I have forgotten just what the figures were, but a considerable item, it was the opinion of the Rate Clerk in the Casualty Insurance Com-

missioner's office that the rate that I had used of $2.26 was applicable to all the work which the company had done in the city of Laredo, but I have used the rate that Mr. Coates asked me to use to avoid any further question about the matter, less, of course, the credit of 12.9 per cent which the policy stipulates.

Mr. Lange: I believe that is all.

* * * * * * *

[fol. 1606] Q. You made no computation on the basis of engineer at five per cent, did you, Mr. Elrod?

A. The computation engineering at five per cent is dependent upon circumstances. If the value of the——

Q. Now, Mr. Elrod, I believe my question is reasonably clear,—did you or did you not make a computation as, I think I requested, at five per cent?

A. Yes.

Q. How much would that increase the amount which you [fols. 1607-1615] reflect in Plaintiffs' Exhibit 9?

Q. Well, if I have two and one-half per cent, five per cent will be just double that, or $39,642.00; but I have made no estimate in my set-up for engineering at five per cent.

Q. Now, so that I may clearly understand you and so that the record may reflect your methods, is it not true that you treat lands, leases, and rights-of-way, materials and supplies, preliminary and organization expense, and cash working capital—or working cash, as you term it, as non-depreciable items?

A. Yes, it is true.

Q. And is not to be taken into account in the base for computing the annual reserve for depreciation, retirements, and replacements?

A. Yes.

Q. And are these not the only items contained in Plaintiffs' Exhibit 9 which you do treat as depreciable items?

A. I think so.

* * * * * * *

[fol. 1616] CHARLES W. FOWLER, JR., a witness for the Plaintiff, having been first duly sworn, testified as follows:

Direct examination.

Questions by Mr. Bobbitt:

Q. What is your name, please sir?
A. Charles W. Fowler, Jr.
Q. Where do you live, Mr. Fowler?
A. San Antonio, Texas.
Q. And you a consulting engineer engaged in the engineering practice in the city of San Antonio and in that vicinity?
A. Yes.
Q. How old are you, Mr. Fowler?
A. Thirty-four years old.
Q. Did you go to school, Mr. Fowler?
A. Some.
Q. Will you tell us, Mr. Fowler, where you went to school and what degrees, if any, you secured as a result of going to school.
A. Well, I went through the public schools of Greensboro, North Carolina, to high school and through the normal high school in Greensboro, North Carolina, which I finished in 1917; and from there I went to the University of North Carolina, and finished in 1921 with a degree of B. S. in Geology.
Q. Did you go to school any further?
A. No.
[fol. 1617] Q. Mr. Fowler, as a consulting engineer and otherwise, have you had experience in the practice of your profession since that time down to date?
A. I have.
Q. Will you give us, as briefly and concisely as may be reasonable, your experience as an engineer and in your practice?
A. Well, from December, 1921, to October, 1922, I was a geologist with the Compania Mexicana "El Aguila", S. A. at Puerto Mexico, Veracruz.
Q. That is a Mexican corporation in the Republic of Mexico?

A. Yes, it is a subsidiary of the Dutch Shell, really. From October, 1922, to November, 1923, I was field geologist and chief scout for Mexican Gulf Oil Company, in Puerto Mexico, Veracruz.

From November, 1923, to June, 1927, I was geologist in charge of exploration and leasing for the Mexican Gulf Oil Company, in Northern Mexico.

From June, 1927, to September, 1927, I was chief geologist and in charge of exploration in Northern Mexico for Henry L. Doherty.

From September, 1927, to January, 1928, I was chief geologist for Henry L. Doherty on examination of Peruvian reserves, in Peru, South America.

From January, 1928, to April, 1928, I was a geologist with Brokaw, Dixon, Garner & McKee of 120 Broadway, New York, engaged in the examination of properties in Columbia, South America.

[fol. 1618] From April, 1928, to February, 1932, I was a Junior member of the firm of Brokaw, Dixon, Garner & McKee, of 120 Broadway, New York, in charge of their Southwestern United States operations, with headquarters in San Antonio, Texas.

Q. As a member of the firm, you had charge of the operations in this general area, in Texas.

A. Yes, and a part of it was out of Texas, but it was in this general area; and from February, 1932, up to this time, I have been a consulting engineer on my own in San Antonio.

Q. Have you had actual experience in the engineering work and in the actual construction of gas transmission lines and gas distribution systems?

A. I have.

Q. Will you tell us, Mr. Fowler, just what experience, and where you have had that experience?

A. Well, the firm of which I was a junior member, had a contract for the engineering and supervision of construction on the Missouri-Kansas Pipe Line, and the Panhandle Eastern Pipe Line.

Q. Did you build any pipe lines?

A. We built approximately 1550 miles of main pipe line from the Panhandle of Texas to Springfield, Illinois.

Q. Did you furnish engineering services in that work?

A. A member of the firm was in direct charge of that

engineering and I did some work under him as a junior member on the job.

Q. All right; go ahead.

A. The Texas Gas Utilities Company, located in South-
[fol. 1619] west Texas. For them we had charge of developing the project from its inception, the design and construction of the lines and the installation of distribution systems, and we put in for them 65 miles of ten inch between Maverick County and Del Rio, Texas; sixteen miles of six inch from the Maverick County field to Eagle Pass; forty miles of four inch from a gas field in Zavalla County to Carrizo Springs, and we piped the towns of Del Rio, Eagle Pass, Carrizo Springs and La Pryor.

Q. You installed the gas transmission systems in those communities?

A. We did.

Q. Did you operate them for a period of time?

A. At the time this construction was started, the town of Uvalde had a distribution system and a line to the field. We had charge of that operation while this construction was in progress and we looked after the operations of the companies until they were turned over to the operating company, which was approximately ninety days.

Q. But you constructed the transmission lines and you constructed the distribution lines for the use of natural gas in these communities?

A. That is correct. For the Dixie Gulf Gas Company we had the engineering on that job, approximately 515 miles of transmission lines. On the El Paso Natural Gas Company, we had charge of the engineering and supervision of construction on that. There is 212 miles of main
[fol. 1620] line and another line going down to the valley, which makes a total of approximately 250 miles. They are the chief enterprises with which I have been in contact, and the firm of which I was a member had direct supervision.

Q. During this engineering work, did you live in the city of Laredo during any of this period of time you have testified about?

A. Yes, at the time I was there with the Mexican Gulf Oil Company approximately three years, doing work in Northern Mexico, and some work on the American side of the River, I made headquarters in Laredo, and for approximately six months with Henry L. Doherty, I had headquarters there.

Q. You lived there how long?

A. Approximately four years altogether, and since which time I have had business interests in Laredo and have been there any number of times.

Q. Are you familiar with the gas situation, we may call it, in the Laredo area?

A. I am to a certain extent.

Q. Were you connected with or did you do any work with the Moody Seagraves interests when they were operating in that vicinity?

A. Yes, we did.

Q. And the Saxet Company, when they were operating in the vicinity of Corpus Christi?

A. Yes.

Q. What was the extent of that work?

[fols. 1621-1627] A. Chiefly in estimating of reserves. At the time we came to this area, the Saxet Company was an operating company.

Q. Mr. Fowler, from your experience in the construction and operation of gas companies—. Well, you use gas don't you?

A. In my home?

Q. Yes.

A. I do.

Q. You have been a user of gas where you have lived and in the different communities where you have worked?

A. Yes.

Q. Now, from your experience, Mr. Fowler, in the gas business, I will ask you your opinion as to whether or not a reduction of gas to the consuming public, the residential consumers, a reduction of the price—or just to get it to save time, perhaps—say from 67½ cents net per thousand cubic feet to 55 cents net per thousand cubic feet; would that reduction in your opinion result in an increased use of gas?

A. It would.

* * * * * * *

[fols. 1628-1631] Questions by Mr. Bobbitt:

Now, to get back to the question, Mr. Fowler, whether or not a reduction of say, 18 percent.

The Court: A reduction of what?

Q. That is the difference between 67½ cents and 55 cents.

The Court: That is not the question.

Q. I know that, but I was trying to take a short cut on it. Now, I believe I asked you and you answered the question, that in your opinion it would result in an increased use of gas?

A. In my opinion, it would.

* * * * * * *

[fol. 1632] Q. I will ask you, Mr. Fowler, whether or not in your opinion a reduction of gas rates of 18 percent, or 18.5 percent, and that is the difference in 67½ cents net per thousand cubic feet and 55 cents net per thousand cubic feet, in the City of Laredo, would result in a larger use of gas by existing gas users? Whether the reduction would result in a larger use of gas, in your opinion.

Mr. Coates: The same objection.

[fols. 1633-1646] A. You mean the present customers using a larger volume?

Q. Yes.

Mr. Coates: The same objection.

A. I think it would.

Q. In your opinion, would there be a larger number of customers to use gas, as the result of that reduction in gas rates?

A. I think so.

* * * * * * *

[fol. 1647] Testimony of JOHN S. IVY

Cross-examination.

Questions by Mr. Bobbitt:

Q. Mister—What is your name?

A. Ivy.

Q. Mr. Ivy, as far as planning is concerned, you plan taking gas from wherever you can get it at the lowest price possible?

A. Well, in my planning I don't take into consideration price at all. I think in terms of volumes.

Q. You don't care anything about the price?

A. Well, as far as my personal business is concerned, why, price doesn't enter into it.

Q. You speak about the wells being dead in the 3,000 foot [fol. 1648] sand up there. That is just the wells that have been drilled—the few wells that have been drilled to that depth, isn't it?

A. Well, there are eight wells that have been drilled, scattered over the field, and they have all gone dead, and the horizon is generally recognized as being depleted.

Q. Some of them have gone dead, and some have come to life, haven't they?

A. Not in that horizon.

Q. Well, they have in other horizons, haven't they?

A. In some of the other horizons, for instance, in the 2,000 foot Mirando sand there have been some wells that have gone dead, but in that horizon they have been deepened to 2200.

Q. Well, you are taking gas from the Carolina-Texas Field, aren't you, from wells that were producing some time ago and then stopped which have come to life and are producing a large flow?

A. No, they didn't come to life of their own accord.

Q. I understand.

Mr. Coates: Let the witness finish his answer.

A. The wells that were abandoned were deepened to other horizons. In one or two—in a few cases it has been possible to go back into wells and clean them out and lower them, so they would be able to produce a little longer; but in those cases there has not been any significant amount of [fol. 1649] gas produced after the reworking jobs, other than the deepening.

Q. Yes. You didn't plan to take gas from the Fansler Field down there until they discovered it, did you? You didn't have any plans in that direction, did you?

A. Of course, our work all the time contemplates the development of new reserves that are not now discovered, and, of course, we can't count potentialities into a reserve pecture until the case is actually in sight.

Q. I understand; but I believe you testified that all you are giving is an estimate and your opinion and judgment about that?

A. Exactly, yes, sir.

Q. And there may be ten times as much gas in that area as you now have, so far as you know?

A. Yes, sir, that is true.

Q. There may be ten times as much?

A. That is perfectly true.

Q. Your concern has gas holdings and leases and connections in the Refugio, Victoria, Louise, Conroe, and other fields in that vicinity, haven't you?

A. We have——

The Court: Wait a minute. What is that question?

Mr. Bobbitt: I asked him if they didn't have large gas [fol. 1650] reserves and connections, taking gas from Victoria and other points down in that vicinity, or Victoria and Conroe.

The Court: You don't mean Conroe is in that vicinty, do you?

Mr. Bobbitt. I am talking about the Conroe vicinity. I didn't get through asking my question, if the Court please.

The Court: Go ahead; I thought you had.

Mr. Bobbitt: No, sir.

A. We have over in the Corpus Christi district and on east over to Houston; we have gas reserves in the White Point and the Saxet Fields——

Q. And Refugio?

A. And the Refugio Field.

Q. And Victoria?

A. The Greta Field——

Q. The Victoria Field——

A. I will take them in order, if you don't mind, so I won't overlook any of them.

Q. All right.

A. The Greta Field, the Victoria Field, the Edna Field, and the Conroe Field.

Q. In the Conroe Field, you have large reserves there?

A. Yes, I would say they are large.

[fol. 1651] Q. And it is your business to keep reserves behind supply?

A. Exactly.

Q. Well, now, Mr. Ivy, if you take the supply of gas from the fields you have just last mentioned and supply these markets in Houston and other points that you are now supplying, you wouldn't be depleting the Carolina-Texas reserves would you?

A. No, but I don't know that the movements are of that order.

Q. Well, I am just asking the question.

A. In fact, I don't know of any gas that is now moving east through our facilities from the Carolina-Texas Field or the Jennings Field.

Q. Well, your concern is taking—you have two transmission lines running out of the Carolina-Texas Field to San Antonio, haven't you?

A. No, sir.

Q. You have how many?

A. We don't have any line running out of the Carolina-Texas Field to San Antonio. We do have this physical tie from the Carolina-Texas Field over to a point north of our Bruni Compressor Station in the Cole Field.

Q. Well, your concern is taking gas out of the Carolina-Texas-Bruni Fields and Supplying San Antonio and New Braunfels and Austin, and other points in this vicinity, aren't you?

[fol. 1652] A. Well, those fields are separate and distinct fields, Mr. Bobbitt.

Q. Well, you are taking gas from those fields and supplying it up here, aren't you?

A. We are not taking gas, in so far as I am aware, from the Carolina-Texas Field and moving it into the San Antonio market.

Q. Well, are you taking it from the——

A. The gas that is moving into the San Antonio market is being obtained in the Cole and Bruni Field, roughly outlined here (indicating on map).

Q. Yes.

A. And part of it flows up the line indicated there, through the twelve inch line, and the other part flows out northeast through the fourteen inch line, where additional gas is obtained from the Agua Dulce Field——

Q. Yes.

A. And from the Sandia Field en route to San Antonio; and also there is gas into the San Antonio market that comes out of the Refugio area at times.

Q. All right; are you through?

A. Yes sir.

Q. All right. You are taking gas, as you have testified, from the Bruni Field or the Carolina-Texas Field?

A. Not the Carolina-Texas Field.

Q. Well, say, the Bruni, and you are furnishing the [fol. 1653] Houston market.

A. No, sir.

Q. You are not taking gas out of the Bruni Field and furnishing the Houston market?

A. No, sir.

Q. Where do you take that gas to?

A. The Houston gas fields?

Q. Where are you taking the gas to from the Bruni Field through those lines? That is what I am asking you.

A. To San Antonio.

Q. Where else?

A. That is the only place it flows to.

Q. And it comes on up to New Braunfels and Austin, doesn't it?

A. Oh, yes. I had in mind the San Antonio market.

Q. Yes. The Houston Pipe Line Company has a large transmission line running out of the Carolina-Texas or the Bruni Field to Houston, have they not?

A. Yes, sir; and they move gas eastward into the Houston market from Carolina-Texas.

Q. Taking large volumes?

A. I don't know just what their daily rate is, but the production I gave a while ago for 1933.

Q. Now, this supply down here that you say in the Jennings Field that you are counting on furnishing Laredo with, you are sending—nearly all the gas you are taking [fol. 1654] you are sending that to Mexico, aren't you, and down the Valley.

A. The principal gas movement to Mexico is from the Martinez area at this time and from two wells in the Jennings Field.

Q. Yes, sir.

A. But those wells and the gas there is also available for Laredo.

Q. You have testified at some length here about keeping reserves behind supply, and the building of a large number of pipe lines, based on your estimate of the reserves. Now, isn't it true Mr. Ives——

Mr. Coates: Ivy.

Q. Mr. Ivy—I beg your pardon—that the construction—how many transmission lines have we out of this Jennings, Bruni, Carolina-Texas gas area to San Antonio, Houston, the Valley, Mexico, and other points, if you know?

A. Well, out of this Laredo district there is the Houston Pipe Line Company's line, which runs eastward, and the Houston are-, and the—our various lines which run to San Antonio and serve Austin and this immediate San Antonio-Austin area, and our line that runs down to Mexico and serves the City of Monterrey and its environs, or area, and the Rio Grande Valley line, which starts in the Henne-Winch Fariss Field, also know-as the Jim Hogg Field, and extends down to Brownsville.

[fol. 1655] Q. The construction and building of those numerous transmission lines, you have testified about indicates that the people recommending their construction had known there were a lot of gas reserves in that field, didn't they—isn't that true?

A. There is no doubt about that, or they would not have gone to that expense.

Q. And the construction of some of those lines was based on your judgment and estimate, wasn't it?

A. Only in a minor way, in this district.

Q. In a minor way?

A. Yes, sir.

Q. All of those lines you have testified about have been constructed subsequent to the original Laredo lines, haven't they?

A. Now, just which lines do you refer to, Mr. Bobbitt?

Q. All that you have testified about—those transmission lines.

A. Well, I have testified about a lot of transmission lines, located in Montana, Pennsylvania, and Louisiana.

Q. Well, I am talking about the Laredo district.

A. In this district?

Q. Yes.

A. What is your question?

Q. All of those transmission lines have been constructed subsequent to the Laredo line?

[fol. 1656] A. Yes, sir, that is my understanding.

Q. Yes, sir. Now, Mr. Ivy, just where did you deliver the 43.56 per cent of the more than one billion cubic feet of gas in 1933 taken from the Carolina-Texas Field?

A. As I understand it, why, it is all moved into the Laredo markets, but I can't testify to the detailed movements of gas through our pipe lines.

Q. You say to the Laredo markets?

A. Yes, sir.

Q. You testified, as I understand it, that there was more than a billion cubic feet of gas taken out of the Carolina-Texas Field in 1933.

A. That is right.

Q. And that your company delivered 43.56 per cent?

A. 43.39, Mr. Bobbitt.

Q. All right. All right, now, where did you send that gas?

A. Well, that gas moved out of the Carolina-Texas Field, and it is my information that it moved into what I term the Laredo markets, which includes all of the Oilton—all of these markets in here (indicating), and thence on into Laredo, and also including the Nuevo Laredo sales; but I am not able to testify in detail as to those movements.

Mr. Bobbitt: I believe that is all, Mr. Ivy.

* * * * * * *

[fol. 1657] Q. There is a whole lot of territory down there in that country that has not been explored yet, isn't there, Mr. Ivy?

A. There certainly is.

Q. Yes, sir. All right.

Mr. Bobbitt: That is all.

Mr. Coates: That is all.

The Court: Stand aside, Mr. Ivy.

(Witness excused.)

[fol. 1658] R. H. Hargrove, a witness for the defendant, upon being recalled, testified as follows:

Direct examination.

Questions by Mr. Coates:

Q. Your name is R. H. Hargrove?

A. Yes, sir.

Q. You are the same R. H. Hargrove that has already been sworn and testified?

A. Yes, sir.

Q. And I believe you testified that you were Vice-President, in charge of production and transmission for United Gas Public Service Company and affiliated companies?

A. Yes, sir.

Q. And of all of the transmission system operations and production system operations of those companies in five states?

A. Yes, sir.

Q. Now, Mr. Hargrove, during 1933 under your direction was a considerable amount of work done in reconditioning what has been referred to in this record as the Jennings-Pescadito line?

A. Yes, sir.

Q. Do you know in a general way on what part of that line that reconditioning work was done—that is, whether on the upper or lower or middle part?

[fol. 1659] A. Well, it was slightly south of the middle section, as I recall it, that the principal work was done.

Q. And what was the occasion for doing that work, Mr. Hargrove?

A. The pipe was in bad condition, and it was necessary to put new pipe in and recondition some sections of the old pipe and replace it.

Q. Why.

A. It had developed an excessive number of leaks at primarily two hot spots in the line.

Q. And what was your purpose in spending this money to get that line back in good condition?

A. To have it in first-class condition to serve the Laredo market through it.

Q. And was that why that money was spent?

A. Yes, sir.

Q. Now, Mr. Hargrove, do you contemplate any further work on that line during 1934?

A. Yes, sir, we plan to recondition about four miles up at the north end of the line, a short distance south of the check meter as shown on that map. We are, in fact, starting on that work now; some of the pipe is on the ground, I believe.

Q. Why are you doing that work?

A. For the same reasons as stated why we did the work in 1933.

Q. And when that work is done what, in your judgment, [fol. 1660] will be the condition of that line?

A. It will be in very satisfactory working condition, in my opinion.

Q. Mr. Hargrove, it has been testified here that the purchase price of gas in the Carolina-Texas Field during 1933 was approximately 4.25 or 4.30 cents per M. C. F. at the well-head. Is the price paid to the well owner for gas delivered at the well-head the only expense that United Gas Public Service Company, as purchaser of that gas, incurs in connection with and reflected in the cost of purchased gas?

A. No, sir, we have an added expense incident to the maintaining of reserves for the system and exploratory work in connection therewith, that is an actual expense over and above the actual amount paid the well owner.

Q. And why don't you just simply rely on independent well owners drilling you wells as you need them and buying all your supply—your gas, instead of keeping on hand reserves yourself and doing exploratory work?

A. The ordinary form of contract under which gas is purchased at the well imposes no obligation on the well owner other than to deliver such gas as he may have available for delivery; he has no obligation to acquire additional reserves, to drill additional wells, or even to recondition the wells that are already drilled, and obviously we can not rely upon a continued service upon such a condition as that. We have to be in a position to meet the demands [fol. 1661] of the public by maintaining large reserves of our own that we are in a position to develop as a new occasion arises.

Q. And if you shouldn't do that, and should wait until about the time that the supply from the existing wells was depleted before going out and acquiring gas reserves and getting gas in sight, what would be the situation with respect to serving the company's markets?

A. We might not be able to get it at that time, and the company's markets would be without gas, and our business would be gone.

Q. In your judgment and with respect to the Carolina-Texas Field, does the over-all price of five cents per M. C. F., to represent the cost of purchased gas as distinguished from the purchase price of gas from the independent well owner, represent a very close approximation of the cost of purchased gas?

A. Yes; we ordinarily figure that we have about a twenty-five per cent increase over the actual purchase price to represent the other cost to us.

Q. And does it work out that way?
A. Yes, sir, in practice it does.

Mr. Coates: I believe that is all Mr. Hargrove.

Cross-examination.

Questions by Mr. Bobbitt:

Q. What position do you say you hold with the United [fol. 1662] Gas Public Service Company?
A. Vice-President in charge of the production and transmission operations.
Q. Vice-President in charge of the production and transmission operations?
A. Yes, sir.
Q. Well, what is Mr. Abernathy? I thought he was in charge of the transmission operations.
A. Mr. Abernathy is Superintendent of transmission operations, which is—in his duties he reports to me.
Q. Oh, you are in charge of the transmission operations and he is superintendent?
A. Yes, sir.
You don't have anything to do with the operations down there in the field, do you?
A. Well, all problems arising from them of any importance are referred to me for decision.
Q. He reports to you?
A. Yes, sir.
Q. And you decide them?
A. Yes, sir.
Q. Are you connected with—do you give all of your time to the United Gas Public Service Company or are you connected also with the Electric Bond and Share Company?
A. No.
Q. Which gives certain services to this——
[fol. 1663] A. No, my sole affiliations are with the United Gas Public Service Company and its affiliated companies.
Q. Mr. Abernathy reports to you about those things, and you report to Electric Bond and Share Company, don't you?
A. No, sir, I do not.
Q. Don't you report to one of these sponsors of production or transmission?

A. No, sir, we do not—I do not. The sponsor spends some time on our properties and confers and advises on different problems. I report to the President of the Company and the Board of Directors.

Q. The sponsor counsels with you?

A. And the other officers of the Company.

Q. And the other officers of the Company, and with Mr. Abernathy?

A. Occasionally.

Q. And then after he gets through, then he reports, of course, to his principals in New York?

A. I presume he keeps them advised.

Q. Well, don't you know that?

A. Yes, sir, I know that he does.

Q. Yes, sir. Mr. Hargrave, is it?

Mr. Coates: Hargrove:

A. Hargrove.

Q. Mr. Hargrove, when did you start your work with [fols. 1664-1665] the United Gas Public Service Company?

A. With its predecessor company on January 1, 1928.

Q. January 1, 1928, and have been with them all the time?

A. Yes, sir.

Q. With headquarters in Houston?

A. In Shreveport until about the middle of 1930, and since then in Houston.

Q. Mr. Hargrove, when did you start reconditioning that Jennings Pescadito transmission line that you testified about?

A. Well, the first work of any major importance since I have been in charge of it was in 1933, I believe.

Q. 1933 is when you started reconditioning it?

A. Yes, sir.

* * * * * * *

[fol. 1666] Q. How many gas wells in the Carolina-Texas field are there producing gas and available for delivery that are not hooked up?

A. I don't know, offhand, Mr. Bobbitt.

Q. You don't know.

A. I only know of two—the two Rosenberg wells.

Q. Aren't there quite a number of independents not

hooked up to any line, and ready to serve, and they can not get their gas taken by your concern or any other one there?

A. Absolutely not. We are willing to take any gas from anybody in that field on an average price and taking it on a ratable basis.

Q. What is the average price up there?

A. Four cents is what I had in mind; I believe it figures slightly in excess of that.

Q. Slightly in excess of four; and down at Jennings it is three cents?

A. I think you have in mind what Mr. Ivy called the Martinez field; it is three cents there, I believe.

[fols. 1667-1687] Q. The Martinez and the Escobas are the same field?

A. Yes.

* * * * * * *

[fol. 1688] Testimony of J. A. Phillips

Q. Mr. Phillips, did you hear or else read the testimony of Mr. Lewis with respect to Voucher J-10-157, wherein Mr. Lewis gave testimony to the effect that such voucher reflects that United Gas Public Service Company when it acquired the properties of South Texas Gas Company had recorded the value of these properties on its books at approximately $934,000.00?

A. Yes; I heard some of Mr. Lewis's testimony in respect to that journal voucher and I read the record in respect to all of his testimony in reference to journal Voucher 10-157.

Q. Have you examined the original of this voucher?

A. I have.

Q. Have you likewise examined the balance sheet of South Texas Gas Company just prior to its merger with United Gas Public Service Company?

A. Yes; I examined the balance sheet of that company showing its condition just prior to the merger.

Q. What conclusion did you reach from the examination of this voucher J-10-157?

A. Well, I reached the conclusion by very casual exami-[fol. 1689] nation of the voucher that it certainly had to do with properties and values not actually recorded on the

voucher. First of all, the voucher records the cancellation of capital stock. It sets out a reacquisition of bonds; and it suggests by the nature of the voucher that in merging the assets of the South Texas Gas Company with the assets of the United Gas Public Service Company——

Mr. Bobbitt: Pardon me, but——

The Court: The witness says the voucher suggests such and so to his mind.

Mr. Bobbitt: You are just testifying what this voucher suggests to you as to what they meant to convey?

A. I am testifying, using accounting terminology, that that is what the voucher itself suggests to any accountant; that is my testimony.

Mr. Bobbitt: I just wanted to get things straightened out.

A. I may repeat, because I don't remember just where I had gotten. But the voucher itself makes reference to the cancellation of capital stock, and to the reacquisition of securities, all of which would make plain to an accountant that there were other assets back of the picture than the particular assets referred to in Mr. Lewis' testimony. It is difficult to understand how otherwise you could bring about the cancellation of the number of shares of stock the voucher discloses.

[fol. 1690] The Court: That is getting into an argument, I think.

Q. From your accounting experience, and your knowledge of proper and accepted and approved accounting principles, is it your judgment and your testimony that this voucher reflects the recording by United Gas Public Service Company on its books of the value of the properties of South Texas Gas Company at any such amount as $934,000.00?

A. No; it does not disclose that to me.

Q. On the other hand, does it disclose that the value of those properties were recorded on the books of the United Gas Public Service Company at an amount greatly in excess of $934,000.00?

A. An examination of the support to the voucher clearly reflects that there were values most substantially in excess of the item of $934,000.00 plus.

Q. Can you state the total values as reflected by the voucher which were involved?

Mr. Bobbitt: We object to——

The Court: I think you had better cut out the words "as reflected", and say "his opinion".

Mr. Bobbitt: The voucher is the best evidence of what it reflects.

The Court: Yes; I think so.

Q. From your examination of that voucher, Mr. Phillips, what value of the South Texas Gas Company's properties does it reflect?

[fol. 1691] Mr. Lange: In his opinion.

Q. In your opinion, based on the examination of the voucher?

A. I would first say this: That vouchers of this character are summarizations of a transaction that is complete, and it is rarely ever true that a voucher contains all the pertinent facts. I am speaking now as an accountant——

The Court: Just answer the question.

A. What was the question?

(Thereupon the following question was read to the witness: "Q. From your examination of that voucher, Mr. Phillips, what value of the South Texas Gas Company's properties does it reflect, in your opinion, based on the examination of the voucher?")

A. The voucher itself does not reflect the value of the properties, or the value at which they were carried on the Company's books.

Q. Does the examination of the voucher, plus the examination of the books, records, and accounts underlying, in support of the voucher, reflect the values?

Mr. Lange: In his opinion?

The Court: Yes.

Mr. Coates: He is testifying as to figures. He is not giving opinion evidence. He is testifying as to figures shown on the record.

The Court: All right.

A. What was the question again?

(Thereupon the Reporter read the following question: "Q. Does the examination of the voucher, plus the exami-[fol. 1692] nation of the books, records, and accounts underlying, in support of the voucher, reflect the values?")

A. Yes.

Q. Can you state what those values were which were reflected by the voucher, plus the records, books and accounts of the South Texas Gas Compay, involved in that merger?

Mr. Lange: The voucher speaks for itself, as to what the voucher and its supporting records reflect. Now, if in his opinion, he believes they reflect something else, but the voucher is in writing and the books and voucher are the best evidence.

The Court: Yes, sir; the voucher and books are the best evidence and speak for themselves.

Mr. Coates: The procedure in cases of this sort, and that which has been followed here, as I understand it, is that where a company of this character is under examination, and where the books of accounts of that company have been opened as they have here, and they have been given full access to those books, then, under the procedure in rate cases, one who has examined those books may come and testify from them without getting a few trucks and bringing all the books up here.

The Court: That is clearly true, but that is not quite the situation here. You asked him a question. They insisted that he was giving his opinion, and you said, "no", that it is a fact, and I said he could state as a fact what it shows. Now, when you ask him a question and use the word "re-
[fol. 1693] flects", they the make the objection that it is a fact question, and that the voucher and books are the best evidence, and I cannot waive that rule because that is a rule of law.

Mr. Coates: Note our exception.

Q. From your examination of this voucher and the books, what value is shown, in your opinion, based on your examination, is given, to the properties and assets of South Texas Gas Company involved in that transaction?

A. In my opinion, the properties and assets are valued as follows: Investments and Capital Stock and Bonds, Loans and Advances, $7,892,061.10.

Mr. Bobbitt: What is that figure?

A. $7,892,061.10. Another asset representing the excess of *of* the investment for South Texas Gas Company in Texas Border Gas Company at the date of the merger, $113,912.70; Book value of plant and property, $2,788,-

651.24; Cash Receivables, Material and Supplies, and so forth $75,884.75; representing the assets, in my opinion, that were merged with the purchasing company, in connection with this voucher.

The Court: I would like to see that sheet, with those figures, there, please.

(Witness hands Court sheet.)

Q. Give the total figure, Mr. Phillips.

A. $10,870,509.79.

[fols. 1694-1714] Q. Reflecting the total assets of the South Texas Gas Company at that time?

A. In my opinion reflecting the total value of the assets of the South Texas Gas Company that were merged with the purchasing company at this time.

* * * * * * *

[fol. 1715] March 30, 1934

Cross-examination.

Questions by Mr. Bobbitt:

Q. Mr. Phillips, you were just recently employed in connection with the examination of these books and records of the United Gas Public Service Company?

A. I was just recently employed by the United Gas Public Service Company.

Q. Yes, sir; that is, a week or ten days ago?

A. About that time—about March 20, 1934.

Q. Yes, sir.

Mr. Bobbitt: I believe that is all, Mr. Phillips.

* * * * * * *

[fols. 1716-1717] (Testimony closed at 3:30 o'clock p. m., March 30, 1934.)

[fols. 1718-1764] [File endorsements omitted]

* * * * * * *

[fol. 1765] Plaintiffs' Exhibit No. 2, of which the following is a true and correct transcript, was offered in evi-

dence during presentation of Preliminary Matters and was introduced by plaintiffs and identified as shown on page 11, volume I, of this Statement of Facts and Transcript.

[fol. 1766] PLAINTIFFS' EXHIBIT No. 2

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS, AUSTIN DIVISION

In Equity. No. 466

THE STATE OF TEXAS et al.

v.

UNITED GAS PUBLIC SERVICE COMPANY

Order Remanding to State Court

The motion of the plaintiffs to remand the above entitled cause to the Fifty-third District Court of Travis County, Texas, having been argued, heard and considered, it is Ordered that said motion be and the same is granted and that this cause be and the same is hereby remanded to the Fifty-third District Court of the State of Texas in and for the County of Travis for further proceedings.

It is further considered by the court that the plaintiffs [fols. 1767-1769] have and recover of the defendant their costs incurred in this court for which execution is awarded; to which judgement of the court the defendant then and there excepted.

Dated 18th day of September 1933.

Robert J. McMillan, Judge.

[fol. 1770] Plaintiffs' Exhibit No. 4, of which the following is a true and correct transcript was offered in evidence while the Witness Leon O. Lewis was testifying and was introduced by plaintiffs and identified as shown on page 778, volume I, of this Statement of Facts and Transcript.

[fol. 1771] PLAINTIFFS' EXHIBIT No. 4

United Gas Public Service Company

Historical Cost of Fixed Capital

Old South Texas Gas Company and Texas Border Gas Company Systems

Excluding Jennings to Roma Transmission System Property

Historical Cost per Books:		
Historical Cost of Fixed Capital Transferred from South Texas Gas Company and Texas Border Gas Company October 21, 1932		$1,049,735.38
Additions: October 21, 1932 to December 31, 1932		
General Property		1,400.68
Transmission System Property:		
Enlarge Portion Main Line Jennings to Pescadito Jct.	$14,387.45	
Recondition 6" and 8" Lines Laredo Area...	87,709.47	
		102,096.92
Balance—December 31, 1932		$1,153,232.98
Year Ended December 31, 1933:		
Additions	$3,747.14	
Retirements	4,986.47	
Net Retirements		1,239.33
Historical Cost of Properties December 31, 1933		$1,151,993.65
Retirement Reserves:		
Accrued Book Reserves on Properties Transferred 10-21-32...		$499,707.47
Add: Provision for Period—October 21, 1932, to December 31, 1933 Computed at 3%		41,295.97
		$541,003.44
Less:		
Charges to Retirement Reserve	$1,361.69	
Replacements Charged to Expense	31,143.60	
		32,505.29
Balance Accumulated Reserve, December 31, 1933		$508,498.15
Retirement Reserves Adjusted to 3%:		
Adjusted Reserve at July 31, 1932		$126,559.13
Add: Provision for Depreciation for Period from October 21, 1932, to December 31, 1932		41,295.97
		$167,855.10
Less: Charges to Retirement Reserve	$1,361.69	
Replacements Charged to Expense	31,143.60	
		32,505.29
Reserve—December 31, 1933—Adjusted to 3%		$135,349.81

(Here follows one paster, side folio 1772)

[fol. 1772]

Border Gas Company, Texas Border Gas Company & South Texas Gas Company

Historical Cost of Fixed Capital as Shown by Books*

Year	Historical Cost Per Books: Additions	Retirements	Net Additions	Accumulated Additions	Depreciation Per Books: Provision for Depreciation Charged To Operations	Less Charges To Reserve	Less Retirement Expense Charged To Operations	Accumulated Depreciation Per Company Books	Adjusted Depreciation: Depreciation at 3%	Accumulated Depreciation at 3%
Border Gas Company:										
1910 Construction	$166,996.68	.....	$166,996.68	$166,996.68	.....	.....	.....	.....	.....	.....
1911 1- 1-11 to 12-31-11	29,241.36	$646.09	28,595.27	195,591.95	.....	.....	.....	.....	$5,438.83	$5,438.83
1912 1- 1-12 to 6-30-12	14,620.68	323.04	14,297.64	209,889.59	.....	.....	.....	.....	3,041.11	8,479.94
1913 6-30-12 to 6-30-13	13,003.21	174.09	12,829.12	222,718.71	.....	.....	.....	.....	6,489.13	14,969.07
1914 6-30-13 to 6-30-14	7,735.79	54.86	7,680.93	230,399.64	.....	.....	.....	.....	6,796.77	21,765.84
1915 6-30-14 to 6-30-15	5,737.40	1,825.71	3,911.69	234,311.33	$82,230.48	.....	$1,664.04	$80,566.44	6,970.68	27,072.48
1916 6-30-15 to 6-20-16	122,532.92	11,134.27	111,398.65	345,709.98	.....	.....	8,731.52	71,834.92	8,700.32	27,041.28
1917 6-30-16 to 6-30-17	7,083.12	23,077.29	15,994.17(†)	329,715.81	.....	.....	19,318.90	52,516.02	10,131.39	17,853.77
1918 6-30-17 to 6-30-18	15,069.85	5,069.23	10,000.62	339,716.43	24,363.76	.....	1,707.79	75,171.99	10,041.48	26,187.46
1919 6-30-18 to 6-30-19	14,643.45	.....	14,643.45	354,359.88	36,380.98	.....	797.99	110,754.98	10,411.14	35,800.61
1919 6-30-19 to 12-31-19	10,579.25	.....	10,579.25	364,939.13	18,833.44	.....	1,718.91	127,869.51	5,394.74	39,476.44
1920 1- 1-20 to 12-31-20	17,160.54	.....	17,160.54	382,099.67	33,869.06	$483.44	182.99	161,072.14	11,205.58	50,015.59
1921 1- 1-21 to 12-31-21	12,452.82	.....	12,452.82	394,552.49	32,319.67	2,168.77	1,727.84	189,495.20	11,649.78	57,768.76
1922 1- 1-22 to 12-31-22	179,713.71	.....	179,713.71	574,266.20	40,326.61	873.02	653.22	228,295.57	14,532.28	70,774.80
1923 1- 1-23 to 12-31-23	141,584.26	13,085.96	128,498.30	702,764.50	52,921.93	7,718.91	8,870.93	264,627.66	19,155.46	73,340.42
1924 1- 1-24 to 12-31-24	73,489.21	.....	73,489.21	776,253.71	61,341.64	5,712.71	1,191.53	319,065.06	22,185.28	88,621.46
1925 1- 1-25 to 12-31-25	131,192.98	.....	131,192.98	907,446.69	69,856.79	3,700.11	3,561.41	381,660.33	25,255.50	106,615.44
1926 1- 1-26 to 12-31-26	56,161.43	.....	56,161.43	963,608.12	77,644.23	673.13	537.05	458,094.38	28,065.82	133,471.08
1927 1- 1-27 to 12-31-27	34,307.27	9,056.79	25,250.48	988,858.60	81,514.07	21,589.20	1,108.09	516,911.16	29,287.00	140,060.79
1928 1- 1-28 to 4-10-28	26,366.02	8,712.49	17,653.53	1,006,512.13	23,001.68	8,471.63	85.50	531,355.71	8,314.05	139,817.71
Total Book Cost of Properties Transferred to South Texas Gas Company	$1,079,671.95	$73,159.82	$1,006,512.13	$1,006,512.13	$634,604.34	$51,390.92	$51,857.71	$531,355.71	$243,066.34	$139,817.71
South Texas Gas Company (S) & Texas Border Gas Company (T)										
1928 4-10-28 to 12-31-28 (S).	$15,287.70	$3,157.12	$12,130.58)		$15,414.40	$1,284.00)				
(T).	31,592.93	7,423.89	24,169.04)	$1,042.811.75	8,408.95	5,090.25)	$.....	$548,804.81	$22,183.92	$155,627.38
1929 1- 1-29 to 12-31-29 (S).	4,429.94	3,774.02	655.92)		21,558.83	158.32)				
(T).	21,044.84	8,320.71	12,724.13)	1,056,191.80	11,947.44	1,205.43)	.....	580,947.33	31,485.05	185,748.68
1930 1- 1-30 to 2-28-30 (S).	8,707.60	.....	8,707.60)		3,793.33	.....)				
(T).	3,275.69	643.50	2,632.19)	1,067,531.59	2,046.39	.....)	.....	586,787.05	5,309.31	191,057.99
1930 3- 1-30 to 6-30-30 (S).	3,870.57	.....	3,870.57)		6,551.26	.....)				
(T).	7,374.03	205.21	7,168.82)	1,078,570.98	3,319.67	.....)	.....	596,657.98	5,430.51	196,488.50
1931 7- 1-30 to 6-31-31 (S).	35,147.77	15,858.80	19,288.97)		11,999.60	269.90)				
(T).	28,394.51	4,183.04	24,211.47)	1,122,071.42	4,715.78	1,501.63)	.....	611,601.83	33,099.64	227,726.61
1932 7- 1-31 to 7-31-32 (S).	12,931.70	133,555.68	120,623.98)**(†)		8,877.21	132,886.70)				
(T).	40,092.11	1,100.86	38,991.25)	1,040,438.69	19,538.10	2,319.72)	.....	504,810.72	36,799.86	129,320.05
1932 8- 1-32 to 10-21-32 (S).	13,728.01	6,469.67	7,258.34)		1,227.41	6,143.17)				
(T).	5,229.80	3,191.45	2,038.35)	1,049,735.38	4,058.93	4,246.42)	.....	499,707.47	7,628.67	126,559.13
Total Book Cost of Properties Transferred to United Gas Public Service Company	$1,310,779.15	$261,043.77	$1,049,735.38	$1,049,735.38	$758,061.64	$206,496.46	$51,857.71	$499,707.47	$384,913.30	$126,559.13

*Note.—Additions Identified as Pertaining to Transmission Line from Jennings to Roma Eliminated.

**Note.—Transmission Lines Retired, New Lines not yet Charged into Capital Account, Depreciation Computed on Full Beginning Balance. The Adjusted Computations for Depreciation are Inaccurate to the Extent that Land, Organization Costs, and Rights of Way are Included in the Computation.

† Red in copy.

[fol. 1773] Plaintiffs' Exhibit No. 5, of which the following is a true and correct transcript was offered in evidence while the Witness Leon O. Lewis was testifying and was introduced by plaintiffs and identified as shown on page 797, volume I, of this Statement of Facts and Transcript.

[fol. 1774]

PLAINTIFFS' EXHIBIT No. 5

Border Gas Company, Texas Border Gas Company and South Texas Gas Company

Comparative Statement of Earnings

For the Seven Year Period Ended December 31, 1931

	Border Gas Company			*Border Gas to 4-10-28 Texas Border and South Texas to 12-31-28	Texas Border Gas Comapny* and South Texas Gas Company		
Operating Revenues:	1925	1926	1927	1928	1929*	1930*	1931*
Gas Sales	$355,305.32	$394,649.89	$343,667.22	$365,046.74	$385,520.48	$393,528.78	$305,434.58 A
Forfeited Discounts	5,898.54	7,310.69	9,190.13	9,741.74	10,548.18	11,555.81	.....
Other Operating Revenues	3,224.30	5,789.29	5,722.63	2,049.74	2,265.32	2,436.00	2,317.30
Total Operating Revenues	$364,428.16	$407,749.87	$358,579.98	$376,838.22	$398,333.98	$407,520.59	$307,751.88
Operating Expenses:							
Gas Purchases	$137,041.67	$136,411.81	$108,197.89	$80,309.28	$76,360.89	$76,598.60	$47,507.45
Transmission and Distribution Operations	19,146.90	22,144.21	23,832.67	25,679.64	25,630.23	32,572.96	23,650.31
Transmission and Distribution Maintenance	11,346.79	10,717.37	10,653.31	10,143.41	7,524.98	13,117.14	20,308.23
General Expense	28,135.18	32,416.14	26,723.93	41,965.87	73,072.18	55,041.83	61,364.73
Taxes—Other than Income	9,845.02	15,483.12	11,386.29	10,172.09	14,968.86	17,240.10	17,959.05
Total Operating Expenses	$205,515.56	$217,172.65	$180,794.09	$168,270.29	$197,557.14	$194,570.63	$170,789.77
Net Return Before Providing for depreciation or Federal Income Tax	$158,912.60	$190,577.22	$177,785.89	$208,567.93	$200,776.84	$212,949.96	$136,962.11

*Operations of Monterrey Line Eliminated from Revenues and Expenses of South Texas Gas Company in Consolidating Operations with Texas Border Gas Company.

A—1931 Gas Sales include Forfeited Discounts.

(Here follows one paster, side folio 1775)

[Vol. 1775]

Border Gas Company

Statement of Earnings from January 1, 1911 to December 31, 1924

	1-1-11 to 6-30-12	Fiscal Year Ended June 30th							7-1-19 to 12-31-19	Year Ended December 31st				
		1913	1914	1915	1916	1917	1918	1919		1920	1921	1922	1923	1924
Operating Revenues:														
Gas Earnings (Net)	$70,023.75	$59,537.98	$52,047.80	$45,923.73	$33,526.13	$49,962.91	$76,756.42	$91,361.83	$43,618.27	$133,472.78	$139,983.01	$148,689.03	$150,114.24	$179,304.95
Warehouse Earnings	.....	.....	.....	3,459.85	16.79	1,738.18	1,105.68	1,705.37	2,229.41	3,889.45	1,579.86	1,494.52	.....	995.78
Other Operating Revenues	.....	.....	.....	10.74	341.71	248.76	84.33	.....	1,879.10	44.53	.....	77.03	74.23	198.17
Total Operating Revenues	$70,023.75	$59,537.98	$52,047.80	$49,394.32	$33,884.63	$51,949.85	$77,946.43	$93,067.20	$47,726.78	$137,406.76	$141,562.87	$150,260.58	$150,188.47	$180,498.90
Operating Expenses:														
Transmission and Distribution Operations	$9,419.79	$5,332.81	$4,688.58	$5,053.43	$5,531.00	$6,506.53	$6,428.87	$7,924.29	$4,769.62	$12,891.63	$15,431.05	$16,056.03	$19,281.78	$17,452.51
Transmission and Distribution Maintenance	1,060.22	955.67	6,854.69	809.95	5,760.56	13,846.66	7,833.70	10,039.45	2,659.83	6,047.97	5,109.93	7,731.71	14,010.11	14,277.41
General Expense	11,152.14	7,909.39	7,029.36	8,210.90	9,319.13	10,197.93	11,970.32	13,559.38	7,698.83	17,845.76	19,804.66	22,891.85	24,260.95	24,930.11
Taxes	2,205.70	1,728.76	2,438.77	2,205.72	2,444.63	1,948.97	2,151.49	2,083.72	1,874.36	3,900.25	8,817.26	9,310.95	18,018.95	6,250.13
Total Operating Expenses	$23,837.85	$15,926.63	$21,011.40	$16,280.00	$23,055.32	$32,500.09	$28,384.38	$33,606.84	$17,002.64	$40,685.61	$49,162.90	$55,990.54	$70,571.79	$62,910.16
Net Return Before Providing for Depreciation and Income Tax	$46,185.90	$43,611.35	$31,036.40	$33,114.32	$10,829.31	$19,449.76	$49,562.05	$59,460.36	$30,724.14	$96,721.15	$92,399.97	$94,270.04	$79,616.68	$117,588.74

[fol. 1776]

South Texas Gas Company

Statement of Earnings

From April 10, 1928 to December 31, 1931

	Apr. 10, 1928 to Dec. 31, 1928	Year Ended Dec. 31, 1929	Year Ended Dec. 31, 1930	Year Ended Dec. 31, 1931
Operating Revenues—				
Gas Sales to Texas Border Gas Co.	$148,501.37	$222,117.56	$222,649.56	$161,330.20
Gas Sales to Cia Mexicana de Gas	.....	2,790.30	233,446.50	192,162.46
Gas Sales to Right-of-Way Consumers	.....	.....	526.40	4,004.55
Total Operating Revenues	$148,501.37	$224,907.86	$456,622.46	$357,497.21
Operating Expenses—				
Gas Purchases	$48,766.83	$77,290.99	$161,598.15	$137,391.25
Transmission System Operations	4,029.93	6,233.18	20,219.78	19,282.40
Transmission System Maintenance	4,248.20	3,852.25	9,033.21	10,307.45
General Expenses	16,461.37	37,762.05	37,962.40	17,289.76
Taxes	1,818.56	4,063.05	9,281.22	9,577.86
Total Operating Expenses	$75,324.89	$129,201.52	$238,094.76	$193,848.72
Net Return on Invested Capital Before Providing for Depreciation	$73,176.48	$95,706.34	$218,527.70	$163,648.49

Note.—Gas Purchases Computed at 5¢ per 1000 MCF.

[fols. 1777–1784] Texas Border Gas Company]

Operating Revenues—				
Gas Sales	$233,476.66	$385,520.48	$393,002.38	$301,430.03*
Forfeited Discounts	7,611.64	10,548.18	11,555.81	.....
Other Operating Revenues	1,760.09	2,265.32	2,436.00	2,317.30
Total Operating Revenues	$242,848.39	$398,333.98	$406,994.19	$303,747.33

*Includes Forfeited Discounts.

Texas Border Gas Company

Statement of Earnings

April 10, 1928 to December 31, 1931

	Apr. 10, 1928 to Dec. 31, 1928	Year Ended Dec. 31, 1929	Year Ended Dec. 31, 1930	Year Ended Dec. 31, 1931
Operating Expenses—				
Gas Purchases	$148,501.37	$222,117.56	$222,649.56	$161,330.20
Distribution System Operations	14,341.19	19,397.05	23,370.94	14,874.89
Distribution System Maintenance	3,527.35	3,672.73	9,006.13	15,617.30
General Expenses	17,717.27	35,310.13	37,047.65	54,936.40
Taxes—Other than Federal Income	5,353.53	10,905.81	13,016.22	13,600.17
Total Operating Expenses	$189,440.71	$291,403.28	$305,090.50	$260,358.96
Net Return on Invested Capital Before Providing for Depreciation	$53,407.68	$106,930.70	$101,903.69	$43,388.37

[fol. 1785] Plaintiffs' Exhibit No. 8, of which the following is a true and correct transcript, was offered in evidence while the Witness Leon O. Lewis was testifying and was introduced by plaintiffs and identified as shown on page 821, volume I, of this Statement of Facts and Transcript.

[fol. 1786]

PLAINTIFFS' EXHIBIT No. 8

South Texas Gas Company—Texas Border Gas Company—United Gas Public Service Company

Consolidated Statement of Earnings From Operations Within the City Limits of Laredo for the Years Ended June 30, 1929, June 30, 1930, June 30, 1931, July 31, 1932, & December 31, 1933

	Consolidated South Texas Gas Company & Texas Border Gas Company				United Gas Public Service Company
	Year Ended June 30			Year Ended July 31,	Year Ended Dec. 31,
	1929	1930	1931	1932	1933
Operating Revenues:					
Gas Sales	$281,320.97	$319,473.23	$254,152.13	$192,349.13*	$157,199.62*
Forfeited Discount	7,899.28	8,451.06	7,176.81	.....	.....
Other Operating Revenues	1,485.37	1,668.51	1,663.36	2,108.96	1,623.00
Total Operating Revenues	$290,705.62	$329,592.80	$262,992.30	$194,458.09	$158,822.62
Operating Expenses:					
Gas Purchases	$56,132.05	$62,233.89	$50,412.75	$22,551.10	$14,997.10
Transmission System Operation	4,473.46	8,779.63	4,727.45	3,167.15	2,511.69
Transmission System Maintenance	5,345.23	3,041.39	2,827.61	1,757.74	1,645.39
Distribution System Operations	17,515.93	19,318.45	13,701.53	11,561.46	10,814.78
Distribution System Maintenance	3,773.79	5,554.47	8,290.11	12,506.66	4,609.09
Customers' Expense	.....	.....	8,618.47	15,367.28	14,145.74
New Business Expense	1,872.74	3,414.56	4,035.28	4,615.33	2,805.19
General Office and General Expense	41,520.51	50,577.60	25,117.95	29,884.60	27,876.42
Taxes—Other than Income Tax	10,619.67	14,341.39	15,550.53	12,738.30	13,893.06
Other Operating Expense	.....	.....	362.96	.....	.....
Total Operating Expenses	$141,253.38	$167,261.38	$133,644.64	$114,149.62	$93,298.46
Net Return Before Providing for Depreciation or Income Tax.	$149,452.24	$162,331.42	$129,347.66	$80,308.47	$65,524.16

* Note.—Includes Forfeited Discounts.

1115

[fol. 1787]

South Texas Gas Company

Statement of Earnings for the Year Ended June 30, 1929

	Total	Other Towns	Laredo		
			Total	Outside City	Inside City
Operating Revenues:					
Gas Sales	$211,067.98	$13,387.58	$197,680.40	$28,149.32	$169,531.08
Operating Expenses:					
Gas Purchases	$70,201.12	$3,504.88	$66,696.24	$10,564.19	$56,132.05
Transmission System Operations	5,594.62	279.17	5,315.45	841.99	4,473.46
Transmission System Maintenance	6,684.88	333.58	6,351.30	1,006.07	5,345.23
New Business Expense	733.29	46.49	686.80	97.82	588.98
General Expense	27,791.64	1,761.99	26,029.65	3,707.40	22,322.25
Taxes—Other than Income Tax	3,468.29	575.11	2,893.18	436.90	2,456.28
Total Operating Expenses	$114,473.84	$6,501.22	$107,972.62	$16,654.37	$91,318.25
Net Return Before Providing for Depreciation and Income Tax	$96,594.14	$6,886.36	$89,707.78	$11,494.95	$78,212.83

[fol. 1788]

South Texas Gas Company

Statement of Earnings for the Year Ended June 30, 1930

			Laredo District Lines			
				Laredo		
	Total	Monterrey Line	Other Towns	Total	Outside City	Inside City
Operating Revenues:						
Gas Sales	$329,350.51	$88,718.85	$16,624.54	$224,007.12	$31,294.95	$192,712.17
Operating Expenses:						
Gas Purchases	$114,034.02	$36,131.46	$4,236.58	$73,665.98	$11,432.09	$62,233.89
Transmission System Operations	15,566.71	4,576.61	597.76	10,392.34	1,612.71	8,779.63
Transmission System Maintenance	5,392.53	1,585.40	207.07	3,600.06	558.67	3,041.39
New Business Expense	690.62	186.05	34.88	469.69	65.61	404.08
Customers' Expense	89.47	24.10	4.52	60.85	8.50	52.35
General Expense	43,260.27	11,654.32	2,184.64	29,421.31	4,109.73	25,311.58
Taxes—Other than Income Tax	7,922.70	2,825.53	384.58	4,712.59	686.60	4,025.99
Total Operating Expense	$186,956.32	$56,983.47	$7,650.03	$122,322.82	$18,473.91	$103,848.91
Net Return Before Providing for Depreciation and Income Tax	$142,394.19	$31,735.38	$8,974.51	$101,684.30	$12,821.04	$ 88,863.26

[fol. 1789]

South Texas Gas Company

Statement of Earnings

For the Year Ended June 30, 1931

	Total	Misc. Sales	Monterrey Line	Laredo District		
				Other Towns	Laredo	
					Outside City	Inside City
Operating Revenues:						
Gas Sales	$499,302.09	$2,437.20	$304,742.25	$15,663.14	$30,539.69	$145,919.81
Operating Expenses:						
Gas Purchases	$168,938.85	$575.19	$101,051.05	$4,014.00	$12,885.86	$50,412.75
Transmission System Operations	18,416.23	53.41	12,049.74	377.53	1,208.10	4,727.45
Transmission System Maintenance	11,015.24	31.95	7,207.27	225.81	722.60	2,827.61
General Office and General Expense	22,931.82	112.36	13,995.29	720.06	1,403.43	6,700.68
Taxes—Other than Income Tax	9,849.13	23.27	5,934.76	351.06	669.92	2,870.12
Other Expenses	41.89	.12	27.41	.86	2.75	10.75
Total Operating Expense	$231,193.16	$79.30	$140,265.52	$5,689.32	$16,892.66	$67,549.36
Net Return Before Providing for Depreciation and Income Tax	$268,108.93	$1,640.90	$164,476.73	$9,973.82	$13,647.03	$78,370.45

[fol. 1790]

South Texas Gas Company

Statement of Earnings

For the Year Ended July 31, 1932

				Texas Border Gas Company			
					Laredo		
	Total	Misc. Sales	Monterrey Line	Other Towns	Total	Outside City	Inside City
Operating Revenues:							
Gas Sales	$309,211.57	$5,385.25	$177,455.14	$10,692.72	$115,678.46	$20,448.51	$95,229.95
Rent Revenues	122.74	1.94	75.24	3.85	41.71	7.38	34.33
Total Operating Revenues	$309,334.31	$5,387.19	$177,530.38	$10,696.57	$115,720.17	$20,455.89	$95,264.28
Operating Expenses:							
Gas Purchases	$115,496.85	$1,862.40	$81,892.10	$2,261.95	$29,480.40	$6,776.75	$22,703.65
Transmission and Gathering System Expense	16,504.16	259.12	11,843.38	288.82	4,112.84	945.69	3,167.15
Transmission and Gathering System Maintenance	9,159.69	143.81	6,572.99	160.30	2,282.59	524.85	1,757.74
General Office and General Expense	18,545.47	293.02	11,368.37	582.33	6,301.75	1,114.58	5,187.17
Taxes	8,582.27	166.14	5,176.35	319.80	2,919.98	613.05	2,306.93
Total Operating Expenses	$168,288.44	$2,724.49	$116,853.19	$3,613.20	$45,097.56	$9,974.92	$35,122.64
Net Return Before Providing for Depreciation	$141,045.87	$2,662.70	$60,677.19	$7,083.37	$70,622.61	$10,480.97	$60,141.64

[fol. 1791]

Texas Border Gas Company

Statement of Earnings for the Year Ended June 30, 1929

	Total	Mdse. & Jobbing	Gas Operations			
			Other Towns	Laredo		
				Total	Outside City	Inside City
Operating Revenue:						
Gas Sales	$364,500.18	.....	$30,898.11	$333,602.07	$52,281.39	$281,320.97
Forfeited Discounts	10,234.88	.....	867.92	9,366.96	1,467.68	7,899.28
Other Operating Revenues	1,924.55	.....	163.20	1,761.35	275.98	1,485.37
Merchandise & Jobbing Revenues	26,441.83	$26,441.83	.....	.....	.....	.....
Total Operating Revenues	$403,101.44	$26,441.83	$31,929.23	$344,730.38	$54,024.76	$290,705.62
Operating Expenses:						
Gas Purchases	$211,067.98	.....	$13,387.58	$197,680.40	$28,149.32	$169,531.08
Distribution System Operations	20,587.60	.....	2,433.45	18,154.15	638.22	17,515.93
Distribution System Maintenance	4,435.58	.....	524.29	3,911.29	137.50	3,773.79
New Business Expense	1,780.03	116.77	140.98	1,522.28	238.52	1,283.76
General Expense	26,619.88	1,746.26	2,108.29	22,765.33	3,567.07	19,198.26
Taxes—Other than Income Tax	9,124.68	.....	514.36	8,610.32	446.93	8,163.39
Merchandise & Jobbing Costs and Expense	22,862.51	22,862.51	.....	.....	.....	.....
Total Operating Expenses	$296,478.26	$24,725.54	$19,108.95	$252,643.77	$33,177.56	$219,466.21
Net Return Before Providing for Depreciation and Income Tax	$106,623.18	$1,716.29	$12,820.28	$92,086.61	$20,847.20	$71,239.41

71—13

[fol. 1792]

Texas Border Gas Company

Statement of Earnings for the Year Ended June 30, 1930

	Total	Mdse. & Jobbing	Gas Operations			
			Other Towns	Laredo		
				Total	Outside City	Inside City
Operating Revenues:						
Gas Sales	$415,512.32	.....	$38,430.60	$377,081.72	$57,608.49	$319,473.23
Forfeited Discounts	10,991.11	.....	1,016.68	9,974.43	1,523.37	8,451.06
Other Operating Revenues	2,170.00	.....	200.73	1,969.27	300.76	1,668.51
Merchandise and Jobbing Revenues	28,220.19	28,220.19	.....	.....	.....	.....
Total Operating Revenues	$456,893.62	$28,220.19	$39,648.01	$389,025.42	$59,432.62	$329,592.80
Operating Expenses:						
Gas Purchases	$240,631.66	.....	$16,624.54	$224,007.12	$31,294.95	$192,712.17
Distribution System Operations	23,020.08	.....	3,024.84	19,995.24	676.79	19,318.45
Distribution System Maintenance	6,618.77	.....	869.71	5,749.06	194.59	5,554.47
New Business Expense	4,173.11	257.48	362.23	3,553.40	542.92	3,010.48
General Expense	34,951.03	2,156.48	3,033.75	29,760.80	4,547.13	25,213.67
Taxes—Other than Income Tax	11,556.07	.....	656.72	10,899.35	583.95	10,315.40
Merchandise & Jobbing Costs and Expense	24,617.16	24,617.16	.....	.....	.....	.....
Total Operating Expenses	$345,567.88	$27,031.12	$24,571.79	$293,964.97	$37,840.33	$256,124.64
Net Return Before Providing for Depreciation and Income Tax	$111,325.74	$1,189.07	$15,076.22	$95,060.45	$21,592.29	$73,468.16

1121

[fol. 1793]

Texas Border Gas Company

Statement of Earnings for the Year Ended June 30, 1931

	Total	Mdse. & Jobbing	Gas Operations		
			Other Towns	Laredo	
				Outside City	Inside City
Operating Revenues:					
Gas Sales	$340,739.14	.....	$32,313.10	$54,273.91	$254,152.13
Forfeited Discounts	9,621.68	.....	912.14	1,532.73	7,176.81
Other Operating Revenues	2,230.00	.....	211.40	355.24	1,663.36
Merchandise and Jobbing Sales	37,271.88	37,271.88	.....	.....	.....
Total Operating Revenues	$389,862.70	$37,271.88	$33,436.64	$56,161.88	$262,992.30
Operating Expenses:					
Gas Purchases	$192,122.64	.....	$15,663.14	$30,539.69	$145,919.81
Distribution System Operations	16,664.48	.....	2,388.02	574.93	13,701.53
Distribution System Maintenance	10,082.84	.....	1,444.87	347.86	8,290.11
Customers' Expense	10,482.21	.....	1,502.10	361.64	8,618.47
New Business Expense	5,981.73	571.85	513.23	861.37	4,035.28
General Office and General Expense	13,914.60	1,330.24	1,193.87	2,003.70	9,386.79
General Expense—Divisional	13,386.43	1,279.74	1,148.56	1,927.65	9,030.48
Taxes—Other than Income Tax	14,390.78	.....	932.33	778.04	12,680.41
Merchandise and Jobbing Costs and Expense	34,360.50	34,360.50	.....	.....	.....
Other Operating Expenses	428.37	.....	61.39	14.77	352.21
Total Operating Expenses	$311,814.58	$37,542.33	$24,847.51	$37,409.65	$212,015.09
Net Return Before Providing for Depreciation and Income Tax	$78,048.12	$270.45*	$8,589.13	$18,752.23	$50,977.21

* Red in copy.

[fol. 1794]

Texas Border Gas Company

Statement of Earnings

For the Year Ended July 31, 1932

	Total	Mdse. & Jobbing	Gas Operations			
			Other Towns	Laredo City Gate	Less: Outside City Limits	Operations Inside City Limits
Operating Revenues:						
Gas Sales	$256,137.03	.....	$25,155.73	$230,981.30	$38,632.17	$192,349.13
Reconnect Charges	2,183.40	.....	301.53	1,881.87	73.14	1,808.73
Rent Revenues	175.50	.....	.....	175.50	.....	175.50
Miscellaneous Operating Revenues	109.12	.....	15.07	94.05	3.65	90.40
Merchandise and Jobbing Sales	10,780.60	10,780.60	.....	.....	.....	.....
Total Operating Revenues	$269,385.65	$10,780.60	$25,472.33	$233,132.72	$38,708.96	$194,423.76
Operating Expenses:						
Gas Purchases	$126,218.63	.....	$10,692.72	$115,525.91	$20,448.51	$95,077.40
Distribution System Operations	13,956.38	.....	1,927.38	12,029.00	467.54	11,561.46
Distribution System Maintenance	15,097.36	.....	2,084.94	13,012.42	505.76	12,506.66
Customers' Expense	18,550.55	.....	2,561.88	15,988.72	621.44	15,367.28
New Business Expense	6,395.08	255.80	604.98	5,534.30	918.97	4,615.33
General Office and General Expense	20,122.54	804.90	1,903.59	17,414.05	2,891.61	14,522.44
General Expense—Divisional Operations	14,098.64	563.95	1,333.73	12,200.96	2,025.97	10,174.99
Taxes	12,272.06	.....	1,133.15	11,138.91	707.54	10,431.37
Merchandise & Jobbing Expenses	15,670.82	$15,670.82	.....	.....	.....	.....
Total Operating Expenses	$242,382.06	$17,295.47	$22,242.32	$202,844.27	$28,587.34	$174,256.93
Net Return Before Providing for Depreciation	$27,003.59	$6,514.87*	$3,230.01	$30,288.45	$10,121.62	$20,166.83

* Red in copy.

1123

[fol. 1795] South Texas Gas Company and Texas Border Gas Company

Summary of Questionable Items Contained in Consolidated Statements of Earnings from Operations in City Limits of Laredo

	Year Ended June 30,			Year Ended July 31,
	1929	1930	1931	1932
Management Fees	$7,656.27	$11,811.82	$2,220.91	$1,815.56
Loss on Bad Debts	723.30	2,138.14	1,294.80	2,874.47
Advertising	1,283.76	2,591.58	1,495.04	2,054.63
General Office Expense Prorated from United Gas Company	.....	.....	9,399.93	12,389.37
Special Payrolls Prorated from United Gas Company	.....	.....	5,069.25	3,154.26
General Expense Prorated from Southern Gas Company	.....	.....	718.76	1,838.01
Maintenance of General Structures—United Gas Company	.....	.....	.....	434.42
Donations	.....	.....	.....	447.72
Testing Distribution Mains	.....	.....	.....	842.35
Laredo Rate Case Expense	.....	.....	.....	1,342.32
General Expense Prorated from United Production Company	.....	.....	.....	153.94
Totals	$9,663.33	$16,541.54	$20,198.69	$27,347.05

[fol. 1796]

South Texas Gas Company

Questionable Items Contained in Operating Statements

Years Ending June 30, 1929, 1930, 1931, and July 31, 1932

		Total	Per Cent Allocated to Laredo	Amount Allocated to Laredo
Year Ended June 30, 1929:				
Management Fees	General Expense	$3,178.93	80.32%	$2,553.32
Year Ended June 30, 1930:				
Management Fees	General Expense	$7,495.84	58.51	$4,385.82
Year Ended June 30, 1931:				
Management Fees	General Expense	$2,935.80	29.22	$857.84
General Office Expense Prorated	" "	7,051.78	29.22	2,060.53
Special Payrolls—United	" "	5,541.80	29.22	1,619.31
General Expense—Southern Gas Co.	" "	1,985.22	29.22	580.08
Total		$17,514.60		$5,117.76
Year Ended July 31, 1932:				
Management Fees	General Expense	$1,882.79	27.97	$526.62
General Office Expense Prorated	" "	10,023.60	27.97	2,803.60
Maintenance General Structures	" "	387.66	27.97	108.43
General Expense—Southern Gas Co.	" "	3,308.47	27.97	925.38
General Expense—United Prod. Co.	" "	550.38	27.97	153.94
Total		$16,152.90		$4,517.97

[fol. 1797]

Texas Border Gas Company

Questionable Items Contained in Operating Statements

Years Ended June 30, 1929, 1930, 1931, and July 31, 1932

		Total	Per Cent Allocated to Laredo	Amount Allocated to Laredo
Year Ended June 30, 1929:				
Management Fees	General Expense	$7,075.64	72.12%	$5,102.95
Loss on Bad Debts	" "	1,002.91	72.12	723.30
Advertising	New Bus. "	1,780.03	72.12	1,283.76
Total		$9,858.58		$7,110.01
Year Ended June 30, 1930:				
Management Fees	General Expense	$10,293.87	72.14	$7,426.90
Loss on Bad Debts	" "	2,963.87	72.14	2,138.14
Advertising	New Bus. "	3,592.43	72.14	2,591.58
Total		$16,850.17		$12,155.72
Year Ended June 30, 1931:				
Management Fees	General Expense	$2,020.56	67.46	$1,363.07
Loss on Bad Debts	Customers' "	1,574.80	82.22	1,294.80
Advertising	New Bus. "	2,216.18	67.46	1,495.04
General Office Expense Prorated	General "	10,879.63	67.46	7,339.40
Special Payrolls—United Gas Co	" "	5,114.06	67.46	3,449.94
General Expense Prorated—Southern Gas Company	" "	205.57	67.46	138.68
Total		$22,010.80		$15,080.93

Year Ended July 31, 1932:				
Management Fees	General Expense	$1,785.98	72.17	$1,288.94
Loss on Bad Debts	Customers' "	3,348.19	82.84	2,773.64
Loss on Bad Debts	General "	139.72	72.17	100.83
Advertising	New Bus. "	2,846.93	72.17	2,054.63
General Office Expense Prorated	General Expense	13,282.22	72.17	9,585.77
Maintenance General Structures	" "	451.67	72.17	325.99
General Expense Prorated—Southern Gas Company	" "	1,264.56	72.17	912.63
Special Payrolls—United Gas Co	" "	4,370.59	72.17	3,154.26
Donations	Dist. System Operations	343.16	72.17	247.66
Donations	Dist. System Operations	241.50	82.84	200.06
Testing Mains for Leaks	General Expense	1,016.84	82.84	842.35
Laredo Rate Case Expense		1,859.94	72.17	1,342.32
Total		$30,951.30		$22,829.08

[fols. 1798-1799] Plaintiffs' Exhibit No. 9, of which the following is a true and correct transcript, was offered in evidence while the Witness Henry E. Elrod was testifying and was introduced by plaintiffs and identified as shown on page 1104, volume II, of this Statement of Facts and Transcript.

[fol. 1800] PLAINTIFFS' EXHIBIT No. 9

Allocation

Transmission System Allocated to City of Laredo on basis of Proportional Volumes of Gas Delivered:—

Total Volume of Gas, M. C. F.		465,081
Total Volume of Gas Delivered to City Gate, M. C. F.		317,071
Per cent. to Laredo	68.18	

Distribution System allocated to City of Laredo on basis of proportional volumes of gas to inside and outside of City through Intermediate Pressure System.

Total Volume of Gas, M. C. F.		436,219
Volume Inside of City, M. C. F.		309,075
Volume Outside of City, M. C. F.		127,144
Per cent. to Laredo	70.85	
Appraised value Distribution System		$597,736
Less " Intermediate Pressure System		91,397
Balance		$506,339
Plus Intermediate Pressure System Allocated		64,755
Total Value of Distribution System		$571,094

	Total Appraised Value, New	Allocated to Laredo
Transmission Properties	$359,128x68.18%	$244,853
Distribution Properties	597,736	571,094
Totals	$956,864	$815,947
Weighted Average Per Cent. for Allocation	85.27.	

[fol. 1801] General Summary and Allocation

	Cost New	% Condition	Cost, New Less Depr.
Transmission System	$359,128		$263,063
Distribution System	597,736		470,488
Totals	$956,864		$733,551
Less:—			
Land, Leases & Rights-of-way	10,475		10,475
Balances	$946,389		$723,076
Materials & Supplies	19,744		19,744
Balances	$926,645	75.90	$703,332
Included with and incorporated in this amount, as "Expense of Purchase & Storage," and deducted as being excessive	$28,711	75.90	$21.792
Balances	$897,934		$681,540

General Summary and Allocation—Continued

	Cost New	% Condition	Cost, New Less Depr.
Add back for Land, Leases & R. O. W.	10,475		10,475
Add for Reasonable Purchase & Storage	7,500		5,693
Totals	$915,909		$697,708
Less Items Already Allocated:			
Furniture & Fixtures	10,310		7,320
Auto & Equipment	5,807		1,724
Tools & Equipment	2,321		1,741
	$18,438		$10,785
Balance for Allocation	$897,471		$636,923
Allocated to Laredo, 85.27%	$765,274		$585,739
Add Items Already Allocates	18,438		10,785
Totals Allocated to Laredo	$783,712		$596,524
Preliminary & Organization, 2%	15,674		15,674
Engineering & Supervision, 2½%	19,593		14,870
Administration & Legal, 1½%	11,756		8,923
Taxes During Construction, ½%	3,919		3,919
Interest During Construction, 3½%	27,430		20,819
[fol. 1802]			
Materials & Supplies	19,744		19,744
Working Cash, 45 days of Annual Operation Expense less Gas Purchases	9,788		9,788
Totals	$891,616		$690,261

$690,261

[fols. 1803–1805]

Summary:	Cost of Reproduction New	Less Depr.
Transmission System of South Texas Gas Company	$359,128	$263,063
Distribution System of Texas Border Gas Company	597,736	470,488
Total	$956,864	$733,551

[fols. 1806–1864]

Transmission

Summary

	Cost New	Depr.
Acct. 316 Land	4,350	4,350
Acct. 318 Rights-of-Way	5,724	5,724
Acct. 320 Transmission Regulating & Measuring Station Structures	1,712	1,431
Acct. 321 Other Transmission System Structures	6,263	4,746
Acct. 323 Transmission System Regulating and Measuring Station Equipment	6,912	5,738
Acct. 324 Transmission Line Equipment	317,852	227,695
Acct. 325 Other Transmission System Equipment:		
A—Farm Taps	105	87
B—Telephone System	11,828	10,054
C—Miscellaneous	246	196
D—Furniture & Fixtures	666	268
E—Automotive Equipment	964	290
F—Tools & Equipment	149	127
Total, Except Material & Supplies	356,771	260,706
Material & Supplies	2,357	2,357
Total—Transmission System	359,128	263,063

[fols. 1865–1972] Summary

Distribution—Laredo

Property Inside City Limits

	Cost New	Less Depr.
Acct. 326 Land	401	401
Acct. 329 District Regulator & Measuring Station Structures	676	515
Acct. 330 Other Distribution System Structures	1,145	853
Acct. 332 Measuring & Regulating Equipment	1,830	1,481
Acct. 333 Distribution Line Equipment—Intermediate Low Pressure	396,010	313,385
Acct. 334 Services:		
A—All except Industrial	80,986	62,359
B—Industrial	8,672	6,677
Acct. 335 & 336 Meters & Meter Installations (Inside City Limits)	62,201	47,895
Acct. 337 Service Regulators	607	468
Acct. 338 Other Distribution System Equipment:		
A—Industrial Installations	9,383	8,282
B—Furniture & Fixtures	10,310	7,320
C—Automotive Equipment	5,807	1,724
E—Tools & Equipment	2,321	1,741
Total, Except Material & Supplies	580,349	453,101
Acct. 338 Other Distribution System Equipment:		
D—Material & Supplies	17,387	17,387
Total—Distribution System—Laredo	597,736	470,488

[fol. 1973] Plaintiffs' Exhibit No. 10, of which the following is a true and correct transcript, was offered in evidence while the Witness W. W. Stein was testifying and was introduced by plaintiffs and identified as shown on page 1533, volume II, of this Statement of Facts and Transcript.

[fol. 1974] PLAINTIFFS' EXHIBIT No. 10

This Agreement made and entered into this 10th day of April, 1928, by and between South Texas Production Company, a Texas corporation, (hereinafter called "Seller") and South Texas Gas Company, a Delaware corporation, (hereinafter called "Purchaser"),

Witnesseth:

Whereas, the Seller owns or controls, through lease or contract, the gas rights in and to certain lands in Webb, Duval, Zapata, Jim Hogg and Starr Counties of the State of Texas and is desirous of securing a market for gas obtained therefrom, and

Whereas, Purchaser is engaged in the purchase, transportation and sale of natural gas, and owns or controls pipe lines and gas transportation systems, and is desirous of purchasing gas for transportation through its pipe lines for sale to its customers;

Now, Therefore, in consideration of the premises and of the covenants and agreements hereinafter set forth to be kept and performed by the respective parties hereto, it is agreed by and between said parties as follows:

1. Seller agrees to sell and deliver to Purchaser, and Purchaser agrees to purchase and receive from Seller at the wells of Seller, such quantities of natural gas as Purchaser [fol. 1975] may require for sale to its customers.

2. All gas purchased hereunder shall be measured by and through standard orifice meter or meters to be installed and maintained by and at the expense of Purchaser at the point or points of delivery. The gas shall be measured at such pressure as may exist by virtue of operating conditions, but for the purpose of computing the payments to be made therefor by Purchaser to Seller, the measurements shall be corrected to a pressure of two (2) pounds above an atmospheric pressure of 14.7 pounds per square inch, to a temperature of 60° Fahrenheit, and to a specific gravity of six-tenths (6/10th).

3. Purchaser shall pay the Seller for all gas delivered hereunder at the rate of Eight Cents (8¢) per thousand cubic feet, except that as to gas sold by Seller to domestic consumers or to distributing companies which deliver the same to domestic consumers, Purchaser shall pay Seller therefor at the rate of Thirteen Cents (13¢) per thousand cubic feet.

By the term "domestic consumers" as used in this Agreement, is meant all those consumers using, or who may use natural gas in domestic service, and is defined as including the use of natural gas for heating, lighting and cooking in private homes, boarding houses, apartment houses, hospitals and charitable institutions, and shall also extend to those using natural gas for lighting, cooking or water heating [fol. 1976] only, in hotels, restaurants and stores and for heating in hotels and buildings where separate rooms are dependent upon natural gas for heating purposes in grates and stoves. All other uses are considered as "industrial uses".

4. Payment for gas delivered hereunder shall be made by Purchaser to Seller at Laredo, Texas, on or before the Twentieth (20th) day of each month for all gas delivered

during the preceding calendar month. Purchaser agrees to furnish to Seller, on or before the tenth (10th) day of each month, meter charts showing amounts of gas delivered by Seller to Purchaser during the preceding calendar month, and statements showing the amounts of gas which Purchaser billed to its consumers as domestic gas during such preceding month. Seller agrees to render bills to Purchaser for gas so sold by Purchaser, and for all other gas delivered to Purchaser hereunder during such preceding month, within five (5) days after the receipt by Seller of the above mentioned meter charts and statements.

5. Seller shall not be liable to Purchaser for any failure to deliver gas when such failure is occasioned by accident to, or breakage of pipe lines or machinery, or the failure, depletion or destruction of gas wells or fields, or fires, strikes, riots, explosions, acts of God or the public enemy, and/or without limitation by the preceding enumeration, any other [fol. 1977] cause reasonably beyond the control of Seller.

6. Purchaser shall not be liable for its failure to purchase and receive gas from the Seller when such failure is occasioned by fires, floods, strikes, riots, explosions, breakage and repairs to the pipe lines and machinery, acts of God or the public enemy, and/or without limitation by the preceding enumeration, any other cause reasonably beyond the control of Purchaser.

6. This Agreement shall continue and remain in force for a period of ten years from the date hereof, and thereafter until terminated by either party hereto upon six (6) months' written notice to the other party.

7. This Agreement shall be subject to all valid orders, rules and regulations of the Railroad Commission of the State of Texas governing the production of natural gas and the transportation thereof within said state.

8. This Agreement shall inure to the benefit of, and be binding upon the respective successors and assigns of the parties hereto.

In Witness Whereof, the parties hereto have caused this Agreement to be executed by their proper officers, and their

respective corporate seals to be hereunto affixed, on the day and year first above written.

South Texas Production Company, (Signed) by E. G. Diefenbach, Vice-President, Seller.

Attest: (Signed) Warren J. Dole, Secretary.

South Texas Gas Company, (Signed) by Alfred Borchert, Vice-President, Purchaser.

Attest: (Signed) Warren J. Dole, Secretary.

[fol. 1978] Plaintiffs' Exhibit No. 11, of which the following is a true and correct transcript, was offered in evidence while the Witness W. W. Stein was testifying and was introduced by plaintiffs and identified as shown on page 1533, volume II, of this Statement of Facts and Transcript.

[fol. 1979] PLAINTIFF'S EXHIBIT No. 11

This Agreement made and entered into, this 30th day of November, 1929, by and between South Texas Production Company, a Texas Corporation, hereinafter called "Seller", and South Texas Gas Company, a Delaware corporation, authorized to do business in Texas, hereinafter called "Purchaser",

Witnesseth:

Whereas, heretofore, to-wit, on the 10th day of April, 1928, the parties hereto entered into an agreement whereby Seller agreed to sell and deliver to Purchaser, and Purchaser agreed to purchase and receive from Seller, at the wells of Seller on lease and lands owned and controlled by Seller in Webb, Duval, Zapata, Jim Hogg and Starr Counties, of the State of Texas, such quantities of natural gas as Purchaser might require for sale to its customers during the term thereof; and

Whereas, the parties hereto desire to modify the terms of said agreement in the manner hereinafter set forth.

Now, Therefore, in consideration of the premises and of the sum of One Dollar to each of the parties paid by the other, receipt of which is hereby aeknowledged, it is agreed by [fol. 1980] and between said parties as follows:

Beginning December 1, 1929, Purchaser shall pay to Seller for all gas delivered under said agreement of April

10, 1928, at the rate of five cents (5¢) per thousand cubic feet on the basis of measurement set out in Paragraph 2 of said agreement.

Except as herein modified, said agreement of April 10, 1928, shall continue and remain in full force and effect in all of its terms and conditions.

In Witness Whereof, the parties hereto have caused this agreement to be executed by their proper officers hereunto duly authorized and their respective corporate seals to be hereunto affixed, on the day and year first above written.

South Texas Production Company, (Sgd.) by W. W. Stein, Vice-President, Seller.

Attest: (Sgd.) N. N. Oille, Asst. Secretary. (Seal.)

South Texas Gas Company, (Sgd.) by O. R. Seagraves, President, Purchaser.

Attest: (Sgd.) Leo Wright. (Seal.)

[fols. 1981-1986] June 30, 1931.

We hereby certify that the foregoing two pages are a true and correct copy of the original Agreement dated November 30, 1929, between South Texas Production Company and South Texas Gas Company.

Chatham Phenix National Bank and Trust Company, Trustee, by —— ——, Trust Officer.

[fol. 1987] Plaintiffs' Exhibit No. 13, of which the following is a true and correct transcript, was offered in evidence and was introduced by plaintiffs and identified as shown on page 1614, volume II, of this Statement of Facts and Transcript.

[fol. 1988] PLAINTIFFS' EXHIBIT No. 13

STATE OF TEXAS,
County of Webb:

Know All Men by These Presents:

That Border Gas Company, a corporation organized under the laws of the State of Louisiana, with a permit to do business in the State of Texas, acting by and thorough its duly authorized officers, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations in hand paid by South Texas Gas Company,

a corporation organized under the laws of the State of Delaware with a permit to do business in the State of Texas, receipt of which is hereby acknowledged, does hereby Grant, Bargain, Sell, Transfer, Assign and Convey unto South Texas Gas Company, a corporation, its successors and assigns, all and singular the following described property:

First. All that certain pipe line for the transportation and supply of gas extending from a point near Laredo, Webb County, Texas, in an easterly direction for 29.50 miles to a junction point near Aguilares, Webb County, Texas, and from said junction point extending in a northeasterly direction for 12.33 miles to the Carolina-Texas Gas Field in Webb County, Texas, with gathering lines in said field, and from said junction point extending in a [fol. 1989] southeasterly direction 5.7 miles to a point near Schott Junction, Webb County, Texas, with a branch pipe line extending from said point near Schott Junction in a northerly direction to Mirando City, Webb County, Texas, and from there in a northeasterly direction to Oilton, Webb County, Texas, and also a branch line extending from said point near Schott Junction in a southerly direction 5.21 miles; also that certain pipe line for the transportation and supply of gas extending from a junction point with the aforesaid pipe line near Pescadito, Webb County, Texas, in a southeasterly direction 27.37 miles to Cuellar Lease on G. C. and S. F. Railway Survey No. 208, Zapata County, Texas, with gathering lines to Wells on said lease and on J. D. Jenning's leases; also that certain pipe line for the transportation and supply of gas extending from wells of the Houston Oil Company near Bruni, Webb County, Texas, 1.07 miles in a southeasterly direction to the said town of Bruni; also that certain pipe line for the transportation and supply of gas extending from Cole #4 Well of Cole Petroleum Company on the Mariano Arispe Grant in Duval County, Texas, in a southeasterly direction 12.93 miles to the Town of Hebbronville in Jim Hogg County, Texas, also all other branch pipe lines, gathering lines and connecting lines appurtenant to the foregoing pipe lines.

Second. All rights of way and easements owned by the [fol. 1990] Border Gas Company for the laying, construction, maintenance and operation of said pipe lines and all rights, titles, privileges and estates under and by virtue

of said rights of way grants, including specifically but not limited to the following described and referred to grants and rights of way and easements owned by Border Gas Company, and the rights of way and easements covered thereby, with all rights, titles, privileges and estates owned or held thereunder:

[fols. 1991-1994] Here follows a detailed list of oil and gas leases comprising the Companies's production system properties.

[fol. 1995] To Have and to Hold the above described pipe lines, rights, easements, titles and estates, together with all privileges and appurtenances thereunto in any wise belonging, unto the said South Texas Gas Company, its successors and assigns, forever, and the said Border Gas Company hereby covenants with the said South Texas Gas Company, its successors and assigns, that the Border Gas Company has good and marketable title to all of the above described properties and that said properties are free and clear from all liens and emcumbrances. That the above described pipe lines and gathering lines are in good working condition and free from defects, that said Border Gas Company has valid and sufficient rights of way and easements for the operation and mantenance of said pipe lines, gathering lines and appurtenances thereto, whether specifi-
[fols. 1996-1999] cally covered by the rights of way grants described above or not, and that it will indemnify, hold safe and harmless the said South Texas Gas Company, its successors and assigns, from any loss by reason of any defects in said rights of way and easements, and the said Border Gas Company will warrant and forever defend, all and singular, the above described properties unto the South Texas Gas Company, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

In Witness Whereof the Border Gas Company has caused this instrument to be executed by its duly authorized officers and its corporate seal hereto affixed, this the 9th day of April, 1928.

Border Gas Company, by J. A. Elkins, Vice-President.

Attest: E. D. Adams, Assistant Secretary. (Seal.)
(Acknowledged in statutory form.)

[fols. 2000-2007] [File endorsements omitted]

* * * * * * * *

[fol. 2008] DEFENDANT'S EXHIBIT No. 2

United Gas System

General Office Expenses

Nature of Expenses and Bases for Apportionment

[fol. 2009] Index

Account No.	Description	Sheet No.
	Classification of Accounts:	
	General to All Companies	1-2
	Carried by Each Company	3
154	General Office and General Expenses—All Companies:	
	Apportionment to Companies	4
	Apportionment to Operating Departments	5
154-50	General Office New Business Expenses—All Companies:	
154-50-24	Commercial	6
154-50-34	Publicity	7
154-50-40	Industrial Engineering	8
154-52	General Office General Expenses—All Companies:	
154-52-18	Administrative—General	9
154-52-19	Administrative—Production	10-11
154-52-20	Administrative—Pipe Line	12
154-52-21	Administrative—Distribution	13
154-52-22	Accounting and Treasury	14
154-52-23	Chemical	15
154-52-25	Construction Accounting	16-17
154-52-26	Dispatching	18
154-52-27	Engineering and Valuation	19-20
154-52-28	Geological	21
154-52-29	Insurance and Safety	22-23
154-52-30	Land and Lease	24
154-52-31	Mapping	25-26
154-52-32	Measurement	27
154-52-35	Right of Way and Claims	28

Defendant's Exhibit No. 2—Continued

Account No.	Description	Sheet No.
154-52-38	Telephone System	29
154-52-41	Rate	30-31
154-52-45	Property Tax	32-33
154-52-46	Office Manager and Secretary	34
154-52-49	Gasoline	35
154-52-50	Compressor Stations	36
154-54	General Office Other General Expenses—All Companies:	
154-54- 1	Law Expenses	37
154-54- 3	Other Insurance	38
154-54- 5	Valuation and Regulatory Commission Expenses	39-40
154-54-11	Medical Expenses	41
154-54-22	Aerial Transportation Expenses	42
154-55	Maintenance of General Telephone System	43
	United Gas Public Service Company:	
150-50	General Office New Business Expenses	44-46
150-52	General Office and General Expenses	47-49
150-54	General Office Other General Expenses	50-53

[fol. 2010]

Sheet 1

United Gas System

General Expenses

Accounts Carried by United Gas Public Service Company

154 General Office and General Expenses—General to All Companies

154-50 General Office New Business Expenses

Departments

24 Commercial

34 Publicity

40 Industrial Engineering

Each of the above has further classification as follows:

1 Rentals

2 Advertising Salaries

3 Advertising Supplies and Expenses

Defendant's Exhibit No. 2—Sheet 1—Continued

4 Sales Management Salaries and Expenses
5 Salesmen's Salaries and Expenses
6 Demonstrations
7 Miscellaneous New Business Supplies and Expenses

154-52 General Office—General Expenses
Departments
18 Administrative—General
19 Administrative—Production
20 Administrative—Pipe Line
21 Administrative—Distribution
22 Accounting and Treasury
23 Chemical
25 Construction Accounting—60% to ERs
26 Dispatching
27 Engineering and Valuation—60% to ERs
28 Geological
29 Insurance and Safety
30 Land and Lease—75% to ERs
31 Mapping—75% to ERs
32 Measurement
35 Right of Way and Claims
38 Telephone System
41 Rate
45 Property Tax
46 Office Manager and Secretary
49 Gasoline
50 Compressor Stations
Expenses Transferred to Expense Equalization
33 Purchase and Traffic
36 General Stores Accounting
37 Capitol Avenue Garage
44 Reproduction
Each of the above has further classification as follows:
1 Administrative and Other Office Salaries
3 Office Supplies and Expenses
4 Stationery and Printing
5 Telephone and Telegraph

Defendant's Exhibit No. 2—Sheet 1—Continued

6 Traveling Expense
9 Rentals
10 Other General Expense

Revised April 1, 1933

[fol. 2011] Sheet 2

United Gas System

General Expenses

Accounts Carried by United Gas Public Service Company

154 General Office and General Expenses—General to All Companies
154-54 Other General Expenses
1 Law Expense
3 Other Insurance
5 Valuation and Regulatory Commission Expense
1 Valuation
2 Accounting
3 Load Factor
4 Legal
5 Other
11 Medical Expense
22 Aerial Transportation Expenses
154-55 Maintenance of General Telephone System
154-59 General Office and General Expense Distributed (Credit)
(Credit to this account offsets total debits in Account 154)

Revised April 1, 1933

[fol. 2012] Sheet 3

United Gas System

General Expenses

Accounts Carried by Each Company

150 General Office New Business and General Expenses
150-50 General Office New Business Expense
1 Rentals
2 Advertising Salaries

Defendant's Exhibit No 2—Sheet 3—Continued

3 Advertising Supplies and Expenses
4 Salesmanagement Salaries and Expenses
5 Salesmen's Salaries and Expenses
6 Demonstrations
7 Miscellaneous New Business Supplies and Expenses
9 Proportion of General Office New Business Expense—General (From proration of account 154-50)

150-52 General Office and General Expenses
1 Administrative and Other Office Salaries
3 Office Supplies and Expenses
4 Stationery and Printing
5 Telephone and Telegraph
6 Traveling Expenses
9 Rentals
10 Other General Expense
11 Proportion of General Office Expense—General (From proration of account 154-52)

150-54 Other General Expenses
1 Law Expenses
2 Fire Insurance
3 Other Insurance
4 Supervision and Consultation Fees
5 Valuation and Regulatory Commission Expense
1 Valuation
2 Accounting
3 Load Factor
4 Legal
5 Other
6 Franchise Requirements
7 Amortization of Franchise
8 Employes Welfare Department
9 Pensions
10 Claim Department Expenses
11 Medical Expenses
12 Injuries to Employes
13 Other Personal Injuries and Property Damage
14 Miscellaneous Accident Expenses
15 Undistributed Adjustments

Defendant's Exhibit No 2—Sheet 3—Continued

16 Proportion of Other General Expenses—General (From proration of account 154-54)
17 Audit Fees
18 Donations
19 Other Miscellaneous
20 Provision for Uncollectible General Accounts

150-55 Maintenance of General Structures

150-56 Taxes
1 Federal Income Tax
2 Other Taxes

150-59 General Office and General Expense Distributed (Credit)
(Credit to this account offsets total debits to account 150)

Revised April 1, 1933

Sheet 4

United Gas System

Apportionment to Companies

General Office and General Expenses General to All Companies

	Total	United Gas Public Service Company	United Production Corporation	Southern Gas & Fuel Company	Northern Texas Utilities Company	Houston Gulf Gas Company	Houston Gas and Fuel Company	Southern Gas Company	Southern Gas Utilities, Inc.	Compania Mexicana de Gas, S. A.
General Office New Business Expenses:										
Commercial	100.0%	71.2%	.....	.....	9.5%	4.8%	10.0%	.1%	4.4%	.....
Publicity	100.0%	63.5%	.....	.....	7.0%	3.8%	23.0%	.....	2.7%	.....
Industrial Engineering	100.0%	56.8%	.....	5.3%	5.9%	15.3%	.....	10.6%	2.7%	3.4%
General Office-General Expenses:										
Administrative—General	100.0%	66.3%	7.8%	1.7%	4.9%	5.7%	5.1%	4.4%	3.4%	.7%
Administrative—Production	100.0%	56.4%	25.7%	.....	1.7%	3.9%	.....	4.6%	7.7%	.....
Administrative—Pipe Line	100.0%	68.4%	.....	3.4%	7.6%	6.2%	.....	10.7%	1.5%	2.2%
Administrative—Distribution	100.0%	72.6%	.....	.....	8.5%	4.1%	10.0%	3.3%	4.5%	.....
Accounting & Treasury	100.0%	66.3%	7.8%	1.7%	4.9%	5.7%	5.1%	4.4%	3.4%	.7%
Chemical	100.0%	78.3%	19.3%	.....	.....	1.1%	.....	.7%	.6%	.....
Dispatching	100.0%	70.5%	.....	6.6%	.3%	9.5%	.....	11.4%	1.7%	.....
Engineering & Valuation	100.0%	73.7%	.2%	1.8%	8.5%	5.8%	.....	6.1%	2.8%	1.1%
Geological	100.0%	42.4%	44.8%	.....	.5%	5.0%	.....	1.5%	3.6%	2.2%
Insurance and Safety	100.0%	58.0%	7.8%	2.3%	2.4%	6.5%	17.2%	4.4%	1.3%	.1%
Land and Lease	100.0%	42.4%	44.8%	.....	.5%	5.0%	.....	1.5%	3.6%	2.2%
Mapping	100.0%	42.4%	44.8%	.....	.5%	5.0%	.....	1.5%	3.6%	2.2%
Measurement	100.0%	70.4%	3.0%	.....	5.3%	8.3%	2.9%	5.5%	3.5%	1.1%
Right of Way & Claims	100.0%	72.7%	.2%	2.0%	8.2%	5.6%	.....	9.0%	2.3%	.....
Telephone System	100.0%	69.2%	.....	3.1%	.....	7.7%	.....	16.1%	.....	3.9%
Rate	100.0%	63.0%	.....	2.0%	6.5%	4.8%	16.0%	3.8%	3.2%	.7%

Defendant's Exhibit No. 2—Sheet 4—Continued

	Total	United Gas Public Service Company	United Production Corporation	Southern Gas & Fuel Company	Northern Texas Utilities Company	Houston Gulf Gas Company	Houston Gas and Fuel Company	Southern Gas Company	Southern Gas Utilities, Inc.	Compania Mexicana de Gas, S. A.
Property Tax	100.0%	67.3%	4.9%	5.0%	3.8%	4.0%	10.0%	4.0%	1.0%	.....
Office Manager and Secretary	100.0%	66.3%	7.8%	1.7%	4.9%	5.7%	5.1%	4.4%	3.4%	.7%
Gasoline	100.0%	100.0%	.....	.....	.....	.....	.....	.....	.....	.....
Compressor Stations	100.0%	75.8%	.....	7.9%	.....	9.6%	.....	6.7%	.....	.....
Other General Expense:										
Law Expense	100.0%	66.3%	7.8%	1.7%	4.9%	5.7%	5.1%	4.4%	3.4%	.7%
Other Insurance	100.0%	66.3%	7.8%	1.7%	4.9%	5.7%	5.1%	4.4%	3.4%	.7%
Valuation & Regulatory Commission Expense	100.0%	60.2%	.....	.....	17.9%	8.9%	.2%	6.2%	6.6%	.....
Medical Expense	100.0%	66.3%	7.8%	1.7%	4.9%	5.7%	5.1%	4.4%	3.4%	.7%
Aerial Transportation Expense	100.0%	66.3%	7.8%	1.7%	4.9%	5.7%	5.1%	4.4%	3.4%	.7%
Maintenance of General Telephone System	100.0%	67.8%	.....	3.3%	.....	8.0%	.....	16.9%	.....	4.0%

Sheet 5

United Gas System

Apportionment to Departments

General Office and General Expense General to All Companies

	Total	Production	Transmission	Distribution	Crude Oil	Gasoline	Carbon Black
General Office New Business Expenses:							
Commercial	100.0%	.....	.....	100.0%	.....	.....	.....
Publicity	100.0%	.....	.....	100.0%	.....	.....	.....
Industrial Engineering	100.0%	.....	100.0%	.....	.....	.....	.....
General Office—General Expenses:							
Administrative—General	100.0%	25.8%	35.5%	32.8%	3.0%	2.9%	.....
Administrative—Production	100.0%	84.0%	.....	.....	16.0%	.....	.....
Administrative—Pipe Line	100.0%	.....	100.0%	.....	.....	.....	.....
Administrative—Distribution	100.0%	.....	.....	100.0%	.....	.....	.....
Accounting and Treasury	100.0%	25.8%	35.5%	32.8%	3.0%	2.9%	.....
Chemical	100.0%	100.0%	.....	.....	.....	.....	.....
Dispatching	100.0%	.....	100.0%	.....	.....	.....	.....
Engineering and Valuation	100.0%	10.0%	50.0%	40.0%	.....	.....	.....
Geological	100.0%	100.0%	.....	.....	.....	.....	.....
Insurance and Safety	100.0%	16.4%	41.1%	32.4%	5.2%	4.6%	.3%
Land and Lease	100.0%	100.0%	.....	.....	.....	.....	.....
Mapping	100.0%	100.0%	.....	.....	.....	.....	.....
Measurement	100.0%	41.3%	49.3%	9.4%	.....	.....	.....
Right of Way and Claims	100.0%	17.0%	83.0%	.....	.....	.....	.....
Telephone System	100.0%	.....	100.0%	.....	.....	.....	.....
Rate	100.0%	.....	30.0%	70.0%	.....	.....	.....
Property Tax	100.0%	10.8%	59.7%	22.6%	3.8%	2.6%	.5%
Office Manager and Secretary	100.0%	25.8%	35.5%	32.8%	3.0%	2.9%	.....
Gasoline	100.0%	.....	.....	.....	.....	100.0%	.....
Compressor Stations	100.0%	.....	100.0%	.....	.....	.....	.....
Other General Expenses:							
Law Expenses	100.0%	25.8%	35.5%	32.8%	3.0%	2.9%	.....
Other Insurance	100.0%	25.8%	35.5%	32.8%	3.0%	2.9%	.....
Valuation and Regulatory Commission Expense	100.0%	.....	75.0%	25.0%	.....	.....	.....
Medical Expenses	100.0%	25.8%	35.5%	32.8%	3.0%	2.9%	.....
Aerical Transportation Expenses	100.0%	25.8%	35.5%	32.8%	3.0%	2.9%	.....
Maintenance of General Telephone System	100.0%	.....	100.0%	.....	.....	.....	.....

[fol. 2015] Sheet 6

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-50	New Business Expenses
154-50-24	Commercial

This account shall include salaries and expenses of the general commercial manager, his assistants and department engaged in directing and supervising load building activities of distribution systems.

Detailed classification provided for this department is as follows:

154-50-24- 1	Rentals
154-50-24- 3	Advertising Supplies and Expenses
154-50-24- 4	Salesmanagement Salaries and Expenses
154-50-24- 5	Salesmen's Salaries and Expenses
154-50-24- 6	Demonstrations
154-50-24- 7	Miscellaneous New Business Supplies and Expenses

Basis for Apportionment to Companies:

Since the cost of this department is directly related to distribution customers, it is applicable only to companies operating distribution systems. Houston Gas and Fuel Company shall be charged monthly with ten (10%) per cent of such cost and the remaining ninety (90%) per cent shall be apportioned to the other companies operating distribution systems in the proportion that the annual average number of distribution system customers of each of such other companies bears to the total annual average number of customers of all distribution systems of such other companies as are supervised by the department.

Apportionment:

United Gas Public Service Company	71.2%
Northern Texas Utilities Company	9.5%
Houston Gulf Gas Company	4.8%
Houston Gas and Fuel Company	10.0%
Southern Gas Company	.1%
Southern Gas Utilities, Inc.	4.4%
Total	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-50 New Business Expenses
150-50- 9 Proportion of General Office New Business Expenses
150-50- 9- 3 Natural Gas—Distribution

[fol. 2016] Sheet 7

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-50 New Business Expenses
154-50-34 Publicity

This account shall include salaries and expenses of the general publicity manager, his assistants and department engaged in directing and supervising advertising and allied activities.

Detailed classification provided for this department is as follows:

154-50-34- 1 Rentals
154-50-34- 2 Advertising Salaries
154-50-34- 3 Advertising Supplies and Expenses
154-50-34- 7 Miscellaneous New Business Supplies and Expenses

Basis for Apportionment to Companies:

The costs of operating this department are incurred primarily in connection with natural gas sales advertising for the purpose of acquiring new customers, introducing new uses, retaining present customers and developing present uses for natural gas; these costs are applicable to the distribution department. Such activities are conducted principally in incorporated cities.

Fifty (50%) per cent of this department's expenses shall be apportioned on the basis of the proportion of the number of distribution systems in incorporated cities operated by each company to the total such distribution systems operated by all companies.

Fifty (50%) per cent shall be apportioned on the basis of the proportion of the annual average number of distribution customers served by each company to the total annual average number of distribution customers served by all companies.

Apportionment:

United Gas Public Service Company	63.5%
Northern Texas Utilities Company	7.0%
Houston Gulf Gas Company	3.8%
Houston Gas and Fuel Company	23.0%
Southern Gas Company	
Southern Gas Utilities, Inc.	2.7%
Total	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-50	New Business Expenses
150-50- 9	Proportion of General Office New Business Expenses
150-50- 9- 3	Natural Gas—Distribution

[fol. 2017] Sheet 8

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)

154-50 New Business Expenses

154-50-40 Industrial Engineering

This account shall include salaries and expenses of the superintendent of industrial sales, his assistants and department engaged in directing and supervising load building activities of transmission systems.

Detailed classification provided for this department is as follows:

154-50-40- 1	Rentals
154-50-40- 3	Advertising Supplies and Expenses
154-50-40- 4	Salesmanagement Salaries and Expenses
154-50-40- 5	Salesmen's Salaries and Expenses
154-50-40- 6	Demonstrations
154-50-40- 7	Miscellaneous New Business Supplies and Expenses

Basis for Apportionment to Companies:

Since the cost of this department is incurred solely for the benefit of those companies operating gas pipe lines, and is directly related to revenues obtained from transmission sales of gas (exclusive of residential and commercial sales) as well as to the number of customers to which such sales are made, fifty (50%) per cent of the cost shall be apportioned to those companies in the proportion that the annual revenues derived from transmission gas sales (exclusive of residential and commercial revenues) of each company bears to the total annual revenues derived from transmission gas sales (exclusive of residential and commercial revenues) of all companies; and fifty (50%) per cent of the cost shall be apportioned to those companies in the proportion that the annual average number of customers

of each company to which such sales are made, bears to the total annual average number of customers of all companies to which such sales are made.

Apportionment:

United Gas Public Service Company	56.8%
Southern Gas and Fuel Company	5.3%
Northern Texas Utilities Company	5.9%
Houston Gulf Gas Company	15.3%
Southern Gas Company	10.6%
Southern Gas Utilities, Inc.	2.7%
Compania Mexicana de Gas, S. A.	3.4%
Total	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-50	New Business Expenses
150-50- 9	Proportion of General Office New Business Expenses
150-50- 9- 2	Natural Gas—Transmission

[fol. 2018] Sheet 9

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-18	Administrative—General.

This department is applicable to all activities.

Detailed classification provided for this department is as follows:

154-52-18- 1	Administrative and Other Office Salaries
154-52-18- 3	Office Supplies and Expenses
154-52-18- 4	Stationery and Printing
154-52-18- 5	Telephone and Telegraph
154-52-18- 6	Traveling Expenses
154-52-18- 9	Rentals
154-52-18-10	Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, the activities of which are general in nature, is applicable to natural gas, crude oil and gasoline activities. This cost shall be apportioned to the companies by operating departments in the proportion that the sum of the commercial, publicity, industrial engineering, administrative-production, administrative-pipe line, administrative-distribution, chemical, dispatching, engineering and valuation, geological, insurance and safety, land and lease, mapping, measurement, right of way and claims, rate, property tax, gasoline, and compressor stations departments apportioned charges to each company by operating department bears to the total apportioned charges of these departments to all companies and operating departments.

Apportionment:	Natural Gas			Crude Oil	Gasoline	Total
	Production	Transmission	Distribution			
United Gas Public Service Company	16.6%	24.3%	22.2%	.3%	2.9%	66.3%
United Production Corporation	5.1%	....	....	2.7%	...	7.8%
Southern Gas and Fuel Company	....	1.7%	....	...	...	1.7%
Northern Texas Utilities Company	.4%	1.7%	2.8%	...	...	4.9%
Houston Gulf Gas Company	1.2%	3.2%	1.3%	...	...	5.7%
Houston Gas and Fuel Company	....	....	5.1%	...	...	5.1%
Southern Gas Company	.9%	3.4%	.1%	...	...	4.4%
Southern Gas Utilities, Inc.	1.5%	.6%	1.3%	...	...	3.4%
Compania Mexicana de Gas, S. A.	.1%	.6%	....	...	...	.7%
Total	25.8%	35.5%	32.8%	3.0%	2.9%	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-52 General Office—General Expenses
150-52-11 Proportion of General Office Expenses—General
150-52-11- 1 Natural Gas—Production
150-52-11- 2 Natural Gas—Transmission
150-52-11- 3 Natural Gas—Distribution
150-52-11- 5 Crude Oil
150-52-11- 6 Gasoline

[fol. 2019] Sheet 10

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)

154-52 General Office—General Expenses

154-52-19 Administrative—Production

This account shall include a portion of the salaries and expenses of the vice-president in charge of production and pipe line, the salaries and expenses of the general production superintendent and the gas production superintendent, their assistants and departments engaged in the administration of gas and crude oil production activities.

Detailed classification provided for this department is as follows:

154-52-19- 1	Administrative and Other Office Salaries
154-52-19- 3	Office Supplies and Expenses
154-52-19- 4	Stationery and Printing
154-52-19- 5	Telephone and Telegraph
154-52-19- 6	Traveling Expenses
154-52-19- 9	Rentals
154-52-19-10	Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, the activities of which are confined to the production of gas and crude oil, is applicable only to companies owning production properties. It having been developed by a study of the cost of time devoted to production, floor space occupied being in close relationship to such cost, that eighty four (84%) per cent of the department's operations is applicable to gas and sixteen (16%) per cent is applicable to crude oil, apportionment shall be made on this basis.

The eighty four (84%) per cent applicable to gas is related to the number of gas wells, and apportionment shall be made to each company owning gas production in the proportion that the total annual average number of

gas wells owned or controlled under purchase contracts of such company bears to the total annual average number of gas wells owned or controlled under purchase contracts of all such companies.

[fol. 2020] Sheet 11

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154-52-19 Administrative-Production.

Basis for Apportionment to Companies (Cont'd.)

The sixteen (16%) per cent applicable to crude oil is related to the volume of production, and apportionment shall be made to each company owning crude oil production in the proportion that the total number of barrels of oil produced annually by such company bears to the total number of barrels of oil produced annually by all such companies.

Apportionment:

	Gas	Crude Oil	Total
United Gas Public Service Company	56.2%	.2%	56.4%
United Production Corporation	10.0%	15.7%	25.7%
Northern Texas Utilities Company	1.7%		1.7%
Houston Gulf Gas Company	3.8%	.1%	3.9%
Southern Gas Company	4.6%		4.6%
Southern Gas Utilities, Inc.	7.7%		7.7%
Total	84.0%	16.0%	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-52 General Office—General Expenses
150-52-11 Proportion of General Office Expenses—General
150-52-11- 1 Natural Gas—Production
150-52-11- 5 Crude Oil

[fol. 2021] Sheet 12

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-20	Administrative—Pipe Line

This account shall include a portion of the salaries and expenses of the vice-president in charge of the production and pipe line departments, the salaries and expenses of the general superintendent of pipe lines, and of their assistants and departments engaged in the administration of gas transmission activities.

Detailed classification provided for this department is as follows:

154-52-20- 1	Administrative and Other Office Salaries
154-52-20- 3	Office Supplies and Expenses
154-52-20- 4	Stationery and Printing
154-52-20- 5	Telephone and Telegraph
154-52-20- 6	Traveling Expenses
154-52-20- 9	Rentals
154-52-20-10	Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, the activities of which are confined to supervision of the transmission of gas, is applicable only to companies owning gas pipe lines. This cost being related both to length and size of pipe lines shall be apportioned to each company operating gas transmission lines in the proportion that the combination of the lineal and the 3" equivalent miles of transmission lines operated by each such company bears to the combination of the total lineal and the total 3" equivalent miles of transmission lines operated by all such companies.

Apportionment:

United Gas Public Service Company	68.4%
Southern Gas and Fuel Company	3.4%
Northern Texas Utilities Company	7.6%
Houston Gulf Gas Company	6.2%
Southern Gas Company	10.7%
Southern Gas Utilities, Inc.	1.5%
Compania Mexicana de Gas, S. A.	2.2%
Total	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-52 General Office—General Expenses
150-52-11 Proportion of General Office Expenses—General
150-52-11- 2 Natural Gas—Transmission

[fol. 2022] Sheet 13

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52 General Office—General Expenses
154-52-21 Administrative—Distribution

This account shall include salaries and expenses of the vice-president in charge of distribution, his assistants and department engaged in the administration of natural gas distribution activities.

Detailed classification provided for this department is as follows:

154-52-21- 1 Administrative and Other Office Salaries
154-52-21- 3 Office Supplies and Expenses
154-52-21- 4 Stationery and Printing
154-52-21- 5 Telephone and Telegraph
154-52-21- 6 Traveling Expenses
154-52-21- 9 Rentals
152-52-21-10 Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, being that of natural gas distribution management, is applicable only to companies operating natural gas distribution systems. It has a direct relationship to the number of distribution systems and to the customers of such systems. Houston Gas and Fuel Company shall be charged monthly with ten (10%) per cent of the cost of operating this department and one half of the remaining ninety (90%) per cent shall be apportioned to the other companies operating natural gas distribution systems in the proportion that the number of distribution systems of each of them bears to the total number of distribution systems of all such other companies; and one-half of the remaining ninety (90%) per cent shall be apportioned to these other companies in the proportion that the annual average number of distribution system customers of each bears to the total annual average number of customers of all such other companies. The sum of these apportionments to each of the other companies will be the total charge to such company.

Apportionment:

United Gas Public Service Company	72.6%
Northern Texas Utilities Company	8.5%
Houston Gulf Gas Company	4.1%
Houston Gas and Fuel Company	10.0%
Southern Gas Company	.3%
Southern Gas Utilities, Inc.	4.5%
Total	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 3	Natural Gas—Distribution

[fol. 2023] Sheet 14

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-22	Accounting and Treasury This department is applicable to all activities.

Detailed classification provided for this department is as follows:

154-52-22- 1	Administrative and Other Office Salaries
154-52-22- 3	Office Supplies and Expenses
154-52-22- 4	Stationery and Printing
154-52-22- 5	Telephone and Telegraph
154-52-22- 6	Traveling Expenses
154-52-22- 9	Rentals
154-52-22-10	Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, the activities of which are general in nature, is applicable to natural gas, crude oil and gasoline activites. This cost shall be apportioned to the companies by operating departments in the proportion that the sum of the commercial, publicity, industrial engineering, administrative-production, administrative pipe-line, administrative-distribution, chemical, dispatching, engineering and valuation, geological, insurance and safety, land and lease, mapping, measurement, right of way and claims, rate, property tax, gasoline, and compressor stations departments apportioned charges to each company by operating department bears to the total apportioned charges of these departments to all companies and operating departments.

Apportionment:	Natural Gas					
	Production	Transmission	Distribution	Crude Oil	Gasoline	Total
United Gas Public Service Company	16.6%	24.3%	22.2%	.3%	2.9%	66.3%
United Production Corporation	5.1%	....	....	2.7%	...	7.8%
Southern Gas and Fuel Company	....	1.7%	.....	...	...	1.7%
Northern Texas Utilities Company	.4%	1.7%	2.8%	...	...	4.9%
Houston Gulf Gas Company.	1.2%	3.2%	1.3%	...	...	5.7%
Houston Gas and Fuel Company	.....	....	5.1%	...	...	5.1%
Southern Gas Company.....	.9%	3.4%	.1%	...	...	4.4%
Southern Gas Utilities, Inc..	1.5%	.6%	1.3%	....	...	3.4%
Compania Mexicana de Gas, S. A.	.1%	.6%	....	...	...	.7%
Total.....	25.8%	35.5%	32.8%	3.0%	2.9%	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-52 General Office—General Expenses
150-52-11 Proportion of General Office Expenses—General
150-52-11- 1 Natural Gas—Production
150-52-11- 2 Natural Gas—Transmission
150-52-11- 3 Natural Gas—Distribution
150-52-11- 5 Crude Oil
150-52-11- 6 Gasoline

[fol. 2024] Sheet 15

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52 General Office—General Expenses
154-52-23 Chemical

This account shall include salaries and expenses of the chief chemist, his assistants and department engaged in the supervision and test checking of field analysis of natural gas,

soil, etc., of production and pipe line properties.

Detailed classification provided for this department is as follows:

154-52-23- 1	Administrative and Other Office Salaries
154-52-23- 3	Office Supplies and Expenses
154-52-23- 4	Stationery and Printing
154-52-23- 5	Telephone and Telegraph
154-52-23- 6	Traveling Expenses
154-52-23- 9	Rentals
154-52-23-10	Other General Expenses

Basis for Apportionment to Companies:

As the cost of operating this department is closely related to district chemical costs, it shall be apportioned monthly to such production and/or pipe line companies in the proportion that the sum of the district charges of this nature in each such company bears to the total district charges of this character in all such companies. (The district charges applicable to transmission being negligible, apportionment shall be made only to natural gas production).

Apportionment:

United Gas Public Service Company	78.3%
United Production Corporation	19.3%
Houston Gulf Gas Company	1.1%
Southern Gas Company	.7%
Southern Gas Utilities, Inc.	.6%
Total	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 1	Natural Gas—Production

[fol. 2025] Sheet 16

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-25	Construction Accounting

This department is applicable to all activities.

Detailed classification provided for this department is as follows:

154-52-25- 1	Administrative and Other Office Salaries
154-52-25- 3	Office Supplies and Expenses
154-52-25- 4	Stationery and Printing
154-52-25- 5	Telephone and Telegraph
154-52-25- 6	Traveling Expenses
154-52-25- 9	Rentals
154-52-25-10	Other General Expenses

NOTE—Sixty (60%) per cent of the cost of this department is chargeable to property account and forty (40%) per cent of the cost is chargeable to operation.

Basis for Apportionment to Companies:

The cost of operating this department, the activities of which are general in nature, is applicable to natural gas, crude oil and gasoline activities. This cost shall be apportioned to the companies by operating departments in the proportion that the sum of the commercial, publicity, industrial engineering, administrative-production, administrative-pipe line, administrative distribution, chemical, dispatching, engineering and valuation, geological, insurance and safety, land and lease, mapping, measurement, right of way and claims, rate, property tax, gasoline, and compressor stations departments apportioned charges to each company by operating department bears to the total apportioned charges of these departments to all companies and operating departments.

[fol. 2026] Sheet 17

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154-52-25 Construction Accounting (Cont'd):

Apportionment:	Natural Gas					
	Production	Transmission	Distribution	Crude Oil	Gasoline	Total
United Gas Public Service Company	16.6%	24.3%	22.2%	.3%	2.9%	66.3%
United Production Corporation	5.1%	....	....	2.7%	...	7.8%
Southern Gas and Fuel Company	....	1.7%	....	...	...	1.7%
Northern Texas Utilities Company	.4%	1.7%	2.8%	...	...	4.9%
Houston Gulf Gas Company	1.2%	3.2%	1.3%	...	...	5.7%
Houston Gas and Fuel Company	....	....	5.1%	...	...	5.1%
Southern Gas Company	.9%	3.4%	.1%	...	...	4.4%
Southern Gas Utilities, Inc.	1.5%	.6%	1.3%	...	...	3.4%
Compania Mexicana de Gas, S. A.	.1%	.6%	....	...	...	.7%
Total	25.8%	35.5%	32.8%	3.0%	2.9%	100.0%

Account to be charged by Companies:

150 General Office and General Expenses
150-52 General Office—General Expenses
150-52-11 Proportion of General Office Expenses—General
150-52-11- 1 Natural Gas—Production
150-52-11- 2 Natural Gas—Transmission
150-52-11- 3 Natural Gas—Distribution
150-52-11- 5 Crude Oil
150-52-11- 6 Gasoline

[fol. 1027] Sheet 18

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52 General Office—General Expenses

154-52-26 Dispatching

This account shall include salaries and expenses of the Chief dispatcher, his assistants and department principally engaged in maintaining an adequate supply of gas in transmission lines.

Detailed classification provided for this department is as follows:

154-52-26- 1	Administrative and Other Office Salaries
154-52-26- 3	Office Supplies and Expenses
154-52-26- 4	Stationery and Printing
154-52-26- 5	Telephone and Telegraph
154-52-26- 6	Traveling Expenses
154-52-26- 9	Rentals
154-52-26-10	Other General Expenses

Basis for Apportionment to Companies:

Since the cost of operating this department, the activities of which are confined to transmitting gas through pipe lines, is related to the direct district dispatching expenses, apportionment shall be made to each company operating pipe lines in the proportion that the total district dispatching expenses of such company bears to the total district dispatching expenses of all companies operating pipe lines.

Apportionment:

United Gas Public Service Company	70.5%
Southern Gas and Fuel Company	6.6%
Northern Texas Utilities Company	.3%
Houston Gulf Gas Company	9.5%
Southern Gas Company	11.4%
Southern Gas Utilities, Inc.	1.7%
Total	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 2	Natural Gas—Transmission

[fol. 2028] Sheet 19

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)

154-52 General Office—General Expenses

154-52-27 Engineering and Valuation

This account shall include salaries and expenses of the chief engineer, his assistants and department engaged principally in making periodic examinations necessary for the purpose of maintaining good operating conditions, studies and recommendations with regard to types of construction and equipment to be used, and inventories and appraisals of physical natural gas production, transmission and distribution properties.

Detailed classification provided for this department is as follows:

154-52-27- 1	Administrative and Other Office Salaries
154-52-27- 3	Office Supplies and Expenses
154-52-27- 4	Stationery and Printing
154-52-27- 5	Telephone and Telegraph
154-52-27- 6	Traveling Expenses
154-52-27- 9	Rentals
154-52-27-10	Other General Expenses

Note.—Sixty (60%) per cent of the cost of this department is chargeable to property account and forty (40%) per cent of the cost is chargeable to operation.

Basis for Apportionment to Companies:

Since the activities of this department are principally confined to gas properties, the cost chargeable to operation is applicable only to companies engaged in the production, transmission or distribution of gas. It being developed by a study of time devoted to and work performed for gas production, transmission and distribution that ten (10%) per cent of the cost chargeable to operation is applicable

to production, that fifty (50%) per cent of such cost is applicable to transmission, and that forty (40%) per cent of such cost is applicable to distribution, apportionment shall be made on this basis.

Following is the apportionment to companies (exclusive of the Houston Gas and Fuel Company which employs a complete staff of engineers) based on estimated values of pipe mileage for production and transmission, and per meter estimated values for distribution.

[fol. 2029] Sheet 20

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154-52-27 Engineering and Valuation (Cont'd)

Apportionment:

	Production	Transmission	Distribution	Total
United Gas Public Service Company	7.9%	34.3%	31.5%	73.7%
United Production Corporation	.2%	....	....	.2%
Southern Gas and Fuel Company	....	1.8%	....	1.8%
Northern Texas Utilities Company	.6%	3.5%	4.4%	8.5%
Houston Gulf Gas Company	.5%	3.3%	2.0%	5.8%
Southern Gas Company	.6%	5.4%	.1%	6.1%
Southern Gas Utilities, Inc	.2%	.6%	2.0%	2.8%
Compania Mexicana de Gas, S. A	....	1.1%	....	1.1%
Total	10.0%	50.0%	40.0%	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses

150-52 General Office—General Expenses

150-52-11 Proportion of General Office Expenses—General

150-52-11- 1 Natural Gas—Production

150-52-11- 2 Natural Gas—Transmission

150-52-11- 3 Natural Gas—Distribution

[fol. 2030] Sheet 21

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)

154-52 General Office—General Expenses

154-52-28 Geological

This account shall include salaries and expenses of the geological superintendent, his assistants and department engaged in the investigation of and recommendation pertaining to the acquisition of new properties; the following of the development in territories in which the companies operate; and the furnishing of gas reserves estimates in these territories.

Detailed classification provided for this department is as follows:

154-52-28- 1	Administrative and Other Office Salaries
154-52-28- 3	Office Supplies and Expenses
154-52-28- 4	Stationery and Printing
154-52-28- 5	Telephone and Telegraph
154-52-28- 6	Traveling Expenses
154-52-28- 9	Rentals
154-52-28-10	Other General Expenses

NOTE.—Eighty (80%) per cent of the cost of this department is chargeable to property account and twenty (20%) per cent of the cost is chargeable to operation.

Basis for Apportionment to Companies:

Since the activities of this department are principally confined to gas production, the cost chargeable to operation is applicable only to companies owning gas production properties. As this cost is directly related to the area of lands leased or owned, apportionment shall be made to each company in the proportion that the total number of acres of leased or owned lands of such company bears to the total leased or owned acreage of all companies.

Apportionment:

United Gas Public Service Company	42.4%
United Production Corporation	44.8%
Northern Texas Utilities Company	.5%
Houston Gulf Gas Company	5.0%
Southern Gas Company	1.5%
Southern Gas Utilities, Inc.	3.6%
Compania Mexicana de Gas, S. A.	2.2%
	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 1	Natural Gas—Production

[fol. 2031] Sheet 22

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-29	Insurance and Safety

This account shall include salaries and expenses of the insurance commissioner, safety director and insurance agent, their assistants and departments engaged in the purchasing of insurance and bonds and the handling of claims, the losses from which are covered by such contracts; the reduction of accidents caused by carelessness and otherwise and the handling of claims arising through accidents.

Detailed classification provided for this department is as follows:

154-52-29- 1	Administrative and Other Office Salaries
154-52-29- 3	Office Supplies and Expenses
154-52-29- 4	Stationery and Printing
154-52-29- 5	Telephone and Telegraph
154-52-29- 6	Traveling Expenses
154-52-29- 9	Rentals
154-52-29-10	Other General Expenses

Basis for Apportionment to Companies:

It being developed by a study of the cost of operating this department, which embraces all activities and is applicable to all companies, that forty three and seven tenths (43.7%) per cent is applicable to insurance and fifty six and three tenths (56.3%) per cent is applicable to safety,

apportionment as between the insurance and the safety sections shall be made on this basis.

The forty three and seven tenths (43.7%) per cent applicable to insurance is related to the amount of premiums paid, and apportionment shall be made to each company in the proportion that the total premiums applicable to such company bears to the total premiums applicable to all companies.

[fol. 2032] Sheet 23

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154-52-29 Insurance and Safety

Basis for Apportionment to Companies (Cont'd):

The fifty six and three tenths (56.3%) per cent applicable to safety is related both to workmen's compensation premiums and the number of employes, and fifty (50%) per cent shall be apportioned to the companies in the proportion that the workmen's compensation premiums applicable to each company bears to the total workmen's compensation premiums applicable to all companies; and fifty (50%) per cent shall be apportioned to the companies in the proportion that the number of employes of each company bears to the number of employes of all companies.

Apportionment:

	Production		Gas				
	Oil	Gas	Transmission	Distribution	Gasoline	Carbon Black	Total
United Gas Public Service Co.	3.0%	8.8%	28.8%	12.5%	4.6%	.3%	58.0%
United Production Corporation	2.0%	5.8%	....	.....	..	..	7.8%
Southern Gas and Fuel Company	...	...	2.3%	....	...	..	2.3%
Northern Texas Utilities Co.	...	.2%	1.1%	1.1%	...	..	2.4%
Houston Gulf Gas Company	.2%	.8%	4.4%	1.1%	...	..	6.5%
Houston Gas and Fuel Company	...	...	....	17.2%	....	..	17.2%
Southern Gas Company	...	.3%	4.1%	....	...	..	4.4%
Southern Gas Utilities, Inc.	...	.5%	.3%	.5%	...	..	1.3%
Compania Mexicana de Gas, S. A.	...	....	.1%	....	...	..	.1%
Total	5.2%	16.4%	41.1%	32.4%	4.6%	.3%	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 1	Natural Gas—Production
150-52-11- 2	Natural Gas—Transmission
150-52-11- 3	Natural Gas—Distribution
150-52-11- 5	Crude Oil
150-52-11- 6	Gasoline
150-52-11- 7	Carbon Black

[fol. 2033] Sheet 24

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-30	Land and Lease

This account shall include salaries and expenses of the land and lease superintendent, his assistants and department engaged in acquiring and handling of all lands including leases and for their proper maintenance through payment of rentals or renewals.

Detailed classification provided for this department is as follows:

154-52-30- 1	Administrative and Other Office Salaries
154-52-30- 3	Office Supplies and Expenses
154-52-30- 4	Stationery and Printing
154-52-30- 5	Telephone and Telegraph
154-52-30- 6	Traveling Expenses
154-52-30- 9	Rentals
154-52-30-10	Other General Expenses

NOTE.—Seventy five (75%) per cent of the cost of this department is chargeable to property account and twenty five (25%) per cent of the cost is chargeable to operation.

Basis for Apportionment to Companies:

Since the activities of this department are principally confined to and are incident to gas production, the cost chargeable to operation is applicable only to companies owning gas production properties. As this cost is directly related to the area of lands leased or owned, apportionment shall be made to each company in the proportion that the total number of acres of leased or owned lands of such company bears to the total leased or owned acreage of all companies.

Apportionment:

United Gas Public Service Company	42.4%
United Production Corporation	44.8%
Northern Texas Utilities Company	.5%
Houston Gulf Gas Company	5.0%
Southern Gas Company	1.5%
Southern Gas Utilities, Inc.	3.6%
Compania Mexicana de Gas, S. A.	2.2%
Total	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses.
150-52 General Office—General Expenses
150-52-1 Proportion of General Office Expenses—General
150-52-11-1 Natural Gas—Production

[fol. 2034] Sheet 25

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52 General Office—General Expenses
154-52-31 Mapping

This account shall include salaries and expenses of the mapping superintendent, his

assistants and department engaged in the preparation of maps necessary for the requirements of the geological and land departments.

Detailed classification provided for this department is as follows:

154-52-31- 1	Administrative and Other Office Salaries
154-52-31- 3	Office Supplies and Expenses
154-52-31- 4	Stationery and Printing
154-52-31- 5	Telephone and Telegraph
154-52-31- 6	Traveling Expenses
154-52-31- 9	Rentals
154-52-31-10	Other General Expenses

NOTE.—Seventy five (75%) per cent of the cost of this department is chargeable to property account and twenty five (25%) per cent of the cost is chargeable to operation.

Basis for Apportionment to Companies:

Since the activities of this department are confined to the preparation of maps for the geological and land departments, the cost chargeable to operation, is applicable only, and in the same manner, to companies to which are apportioned the cost of operating the geological and land departments. Apportionment of the operating cost of the latter mentioned departments being made to companies owning production properties, on the basis of acres of leased or owned lands, apportionment of the cost of operating the mapping department shall be made to each company owning production properties in the proportion that the total number of acres of leased or owned lands of such company bears to the total leased or owned acreage of all these companies.

[fol. 2035] Sheet 26

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154-52-31 Mapping (Cont'd.)

Apportionment:

United Gas Public Service Company	42.4%
United Production Corporation	44.8%
Northern Texas Utilities Company	.5%
Houston Gulf Gas Company	5.0%
Southern Gas Company	1.5%
Southern Gas Utilities, Inc.	3.6%
Compania Mexicana de Gas, S. A.	2.2%
Total	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-52 General Office—General Expenses
150-52-11 Proportion of General Office Expenses—General
150-52-11-1 Natural Gas—Production

[fol. 2036] Sheet 27

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52 General Office—General Expenses
154-52-32 Measurement

This account shall include salaries and expenses of the superintendent of measurement, and of his assistants and department engaged in the administration of gas measurement activities.

Detailed classification provided for this department is as follows:

154-52-32- 1	Administrative and Other Office Salaries
154-52-32- 3	Office Supplies and Expenses
154-52-32- 4	Stationery and Printing
154-52-32- 5	Telephone and Telegraph
154-52-32- 6	Traveling Expenses
152-52-32- 9	Rentals
154-52-32-10	Other General Expenses

Basis for Apportionment to Companies:

Since the cost of operating this department, the activities of which are confined to supervision of gas measurement, is directly related to the number of chart meter readings, apportionment shall be made to each company in the proportion that the number of chart meter readings of such company bears to the total number of chart meter readings of all companies.

Apportionment:

	Production	Transmission	Distribution	Total
United Gas Public Service Co.	33.1%	33.7%	3.6%	70.4%
United Production Corporation	3.0%	.....	.....	3.0%
Northern Texas Utilities Co.	.4%	2.3%	2.6%	5.3%
Houston Gulf Gas Company	2.8%	5.4%	.1%	8.3%
Houston Gas and Fuel Company	.....	.....	2.9%	2.9%
Southern Gas Company	.7%	4.8%	.....	5.5%
Southern Gas Utilities, Inc.	1.3%	2.0%	.2%	3.5%
Compania Mexicana de Gas, S. A.	.....	1.1%	.....	1.1%
Total	41.3%	49.3%	9.4%	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 1	Natural Gas—Production
150-52-11- 2	Natural Gas—Transmission
150-52-11- 3	Natural Gas—Distribution

[fol. 2037] Sheet 28

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)

154-52 General Office—General Expenses

154-52-35 Right of Way and Claims

This account shall include salaries and expenses of the right of way and claim agent, his assistants and department engaged in the purchasing of rights of way, the keeping of necessary records pertaining thereto, and in the settlement of claims arising from gathering and transmission line damages.

Detailed classification provided for this department is as follows:

154-52-35- 1	Administrative and Other Office Salaries
154-52-35- 3	Office Supplies and Expenses
154-52-35- 4	Stationery and Printing
154-52-35- 5	Telephone and Telegraph
154-52-35- 6	Traveling Expenses
154-52-35- 9	Rentals
154-52-35-10	Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, the activities of which are confined to gas production and transmission, is applicable only to companies owning gathering and transmission lines. (Exclusive of Compania Mexicana de Gas, S. A.) It being related to the length of pipe lines, apportionment shall be made to each company in the proportion that the total lineal miles of gathering, transmission and tap lines of such company bears to the total lineal miles of gathering, transmission and tap lines of all such companies.

Apportionment:

	Production	Transmission	Total
United Gas Public Service Company	13.8%	58.9%	72.7%
United Production Corporation	.2%	.....	.2%
Southern Gas & Fuel Company	.....	2.0%	2.0%
Northern Texas Utilities Company	.6%	7.6%	8.2%
Houston Gulf Gas Company	.9%	4.7%	5.6%
Southern Gas Company	1.1%	7.9%	9.0%
Southern Gas Utilities, Inc.	.4%	1.9%	2.3%
Total	17.0%	83.0%	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 1	Natural Gas—Production
150-52-11- 2	Natural Gas—Transmission

[fol. 2038]

Sheet 29

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-38	Telephone System

This account shall include salaries and expenses of the telephone and telegraph superintendent, his assistants and department engaged in directing and supervising the transmission of messages by wire.

Detailed classification provided for this department is as follows:

154-52-38- 1	Administrative and Other Office Salaries
154-52-38- 3	Office Supplies and Expenses
154-52-38- 4	Stationery and Printing

154-52-38- 5	Telephone and Telegraph
154-52-38- 6	Traveling Expenses
154-52-38- 9	Rentals
154-52-38-10	Other General Expenses

Basis for Apportionment to Companies:

Since the cost of operating this department is applicable only to those transmission companies owning telephone lines or controlling wires under lease agreements, apportionment shall be made to them in the proportion that the miles of owned and leased telephone lines of each such company bears to the total miles of owned and leased telephone lines of all such companies.

Apportionment:

United Gas Public Service Company	69.2%
Southern Gas and Fuel Company	3.1%
Houston Gulf Gas Company	7.7%
Southern Gas Company	16.1%
Compania Mexicana de Gas, S. A.	3.9%
Total	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 2	Natural Gas—Transmission

[fol. 2039] Sheet 30

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-41	Rate

This account shall include salaries and expenses of the rate engineer, his assistants and

department engaged in the study of rate problems, competitive situations with regard to other fuels and the designing of rate schedules for those companies having revenues derived from the sale of natural gas to pipe line or distribution customers.

Detailed classification provided for this department is as follows:

154-52-41- 1	Administrative and Other Office Salaries
154-52-41- 3	Office Supplies and Expenses
154-52-41- 4	Stationery and Printing
154-52-41- 5	Telephone and Telegraph
154-52-41- 6	Traveling Expenses
154-52-41- 9	Rentals
154-52-41-10	Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, the activities of which are confined to sales prices of natural gas charged transmission and distribution customers, is applicable only to companies owning gas pipe line or distribution systems. It being developed by a time study of man hours devoted to transmission and distribution that thirty (30%) per cent of the cost of operating the department is applicable to transmission and seventy (70%) per cent of the cost of operating the department is applicable to distribution, apportionment shall be made on this basis.

Of the thirty (30%) per cent, applicable to transmission, being directly related to gross revenues and number of customers, fifty (50%) per cent shall be apportioned to companies operating pipe lines in the proportion that the total annual gross revenues derived from the sale of natural gas to transmission consumers of each company bears to the total annual gross revenues derived from the sale of natural gas to transmission consumers of all companies; and fifty (50%) per cent shall be apportioned to these companies in the proportion that the total annual average number of transmission customers of each company bears to the total annual average number of transmission customers of all these companies.

[fol. 2040] Sheet 31

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154-52-41 Rate

Basis for Apportionment to Companies (Cont'd):

Of the seventy (70%) per cent, applicable to distribution, being related to the number of distribution systems and to distribution customers, fifty (50%) per cent shall be apportioned to companies owning distribution systems in the proportion that the total number of distribution systems of each such company bears to the total number of distribution systems of all such companies; and fifty (50%) per cent shall be apportioned to each such company in the proportion that the total annual average number of distribution system customers of such company bears to the total annual average number of distribution system customers of all such companies.

Apportionment:

	Transmission	Distribution	Total
United Gas Public Service Company	19.2%	43.8%	63.0%
Southern Gas and Fuel Company	2.0%	.....	2.0%
Northern Texas Utilities Company	1.6%	4.9%	6.5%
Houston Gulf Gas Company	2.5%	2.3%	4.8%
Houston Gas and Fuel Company	.....	16.0%	16.0%
Southern Gas Company	3.5%	.3%	3.8%
Southern Gas Utilities, Inc.	.5%	2.7%	3.2%
Compania Mexicana de Gas, S. A.	.7%	.....	.7%
Total	30.0%	70.0%	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 2	Natural Gas—Transmission
150-52-11- 3	Natural Gas—Distribution

[fol. 2041] Sheet 32

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)

154-52 General Office—General Expenses

154-52-45 Property Tax

This account shall include salaries and expenses of the tax commissioner, his assistants and department engaged in the rendition of property values to proper governmental agencies for ad valorem taxation, conferences with tax equalization boards or commissions with respect to such valuations and the payment of or notification to the executive department of ad valorem tax obligations.

Detailed classification provided for this department is as follows:

154-52-45- 1	Administrative and Other Office Salaries
154-52-45- 3	Office Supplies and Expenses
154-52-45- 4	Stationery and Printing
154-52-45- 5	Telephone and Telegraph
154-52-45- 6	Traveling Expenses
154-52-45- 9	Rentals
154-52-45-10	Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, being that of rendition of values for and payment of ad valorem taxes, is applicable to all companies for which such renditions and payments are made. It being directly related to the amount of ad valorem tax assessments, apportionment shall be made to each such company in the proportion that the total ad valorem tax assessments of the company bears to the total ad valorem tax assessments of all such companies.

[fol. 2042] Sheet 33

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154-52-45 Property Tax (Cont'd):

Apportionment:	Natural Gas			Gasoline	Crude Oil	Carbon Black	Total
	Prod.	Transmission	Distribution				
United Gas Public Service Co.	8.8%	44.8%	10.5%	2.6%	.1%	.5%	67.3%
United Production Corporation	1.2%	.....	.....	.....	3.7%	.....	4.9%
Southern Gas and Fuel Company	.....	5.0%	.....	.....	.....	.....	5.0%
Northern Texas Utilities Co.	.2%	2.2%	1.4%	.....	.....	.....	3.8%
Houston Gulf Gas Company	.4%	3.3%	.3%	.....	.....	.....	4.0%
Houston Gas and Fuel Company	.....	.....	10.0%	.....	.....	.....	10.0%
Southern Gas Company	.....	4.0%	.....	.....	.....	.....	4.0%
Southern Gas Utilities, Inc.	.2%	.4%	.4%	.....	.....	.....	1.0%
Total	10.8%	59.7%	22.6%	2.6%	3.8%	.5%	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-52 General Office—General Expenses
150-52-11 Proportion of General Office Expenses—General
150-52-11- 1 Natural Gas—Production
150-52-11- 2 Natural Gas—Transmission
150-52-11- 3 Natural Gas—Distribution
150-52-11- 5 Crude Oil
150-52-11- 6 Gasoline
150-52-11- 7 Carbon Black

[fol. 2043] Sheet 34

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-46	Office Manager and Secretary

This department is applicable to all activities.

Detailed classification provided for this department is as follows:

154-52-46- 1	Administrative and Other Office Salaries
154-52-46- 3	Office Supplies and Expenses
154-52-46- 4	Stationery and Printing
154-52-46- 5	Telephone and Telegraph
154-52-46- 6	Traveling Expenses
154-52-46- 9	Rentals
154-52-46-10	Other General Expenses

Basis for Apportionment to Companies:

The cost of operating this department, the activities of which are general in nature, is applicable to natural gas, crude oil and gasoline activities. This cost shall be apportioned to the companies by operating departments in the proportion that the sum of the commercial, publicity, industrial engineering, administrative-production, administrative-pipe line, administrative-distribution, chemical, dispatching, engineering and valuation, geological, insurance and safety, land and lease, mapping, measurement, right of way and claims, rate, property tax, gasoline, and compressor stations departments apportioned charges to each company by operating department bears to the total apportioned charges of these departments to all companies and operating departments.

Apportionment:	Natural Gas			Crude Oil	Gasoline	Total
	Production	Transmission	Distribution			
United Gas Public Service Company	16.6%	24.3%	22.2%	.3%	2.9%	66.3%
United Production Corporation	5.1%	....	....	2.7%	...	7.8%
Southern Gas and Fuel Company	....	1.7%	....	...	...	1.7%
Northern Texas Utilities Company	.4%	1.7%	2.8%	...	...	4.9%
Houston Gulf Gas Company	1.2%	3.2%	1.3%	...	...	5.7%
Houston Gas and Fuel Company	....	....	5.1%	...	...	5.1%
Southern Gas Company	.9%	3.4%	.1%	...	...	4.4%
Southern Gas Utilities, Inc.	1.5%	.6%	1.3%	...	...	3.4%
Compania Mexicana de Gas, S. A.	.1%	.6%	....	...	...	.7%
Total	25.8%	35.5%	32.8%	3.0%	2.9%	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-52 General Office—General Expenses
150-52-11 Proportion of General Office Expenses—General
150-52-11- 1 Natural Gas—Production
150-52-11- 2 Natural Gas—Transmission
150-52-11- 3 Natural Gas—Distribution
150-52-11- 5 Crude Oil
150-52-11- 6 Gasoline

[fol. 2044] Sheet 35

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52 General Office—General Expenses
154-52-49 Gasoline

This account shall include that portion of the salaries and expenses of the vice-president in charge of production and pipe line, and of the salaries and expenses of the production superintendent and his assistant as

is incurred in the administration of gasoline production activities.

Detailed classification provided for this department is as follows:

154-52-49- 1	Administrative and Other Office Salaries
154-52-49- 3	Office Supplies and Expenses
154-52-49- 4	Stationery and Printing
154-52-49- 5	Telephone and Telegraph
154-52-49- 6	Traveling Expenses
154-52-49- 9	Rentals
154-52-49-10	Other General Expenses

Basis for Apportionment to Companies:

Since the United Gas Public Service Company owns all gasoline facilities, that company shall be charged with the entire cost of this department.

Apportionment:

United Gas Public Service Company—100%

Account to be Charged by Company:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 6	Gasoline

[fol. 2045] Sheet 36

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-52	General Office—General Expenses
154-52-50	Compressor Stations

This account shall include a portion of the salaries and expenses of the vice-president in charge of production and pipe line and the salaries and expenses of the superintendent

of compressing stations, their assistants and departments engaged in the administration of compressing station activities.

Detailed classification provided for this department is as follows:

154-52-50- 1	Administrative and Other Office Salaries
154-52-50- 3	Office Supplies and Expenses
154-52-50- 4	Stationery and Printing
154-52-50- 5	Telephone and Telegraph
154-52-50- 6	Traveling Expenses
154-52-50- 9	Rentals
154-52-50-10	Other General Expenses

Basis for Apportionment to Companies:

Since the cost of operating this department which is applicable to gas transmission only, is related both to the number of compressor stations and to the rated horse power of them, fifty (50%) per cent of the cost shall be apportioned to each company operating compressors in the proportion that the number of compressing stations operated by each such company bears to the total number of compressing stations operated by all such companies; and fifty (50%) per cent of the cost shall be apportioned to those companies in the proportion that the total rated horse power of compressor stations operated by each such company bears to the total rated horse power of compressor stations operated by all such companies.

Apportionment:

United Gas Public Service Company	75.8%
Southern Gas and Fuel Company	7.9%
Houston Gulf Gas Company	9.6%
Southern Gas Company	6.7%
Total	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-52	General Office—General Expenses
150-52-11	Proportion of General Office Expenses—General
150-52-11- 2	Natural Gas—Transmission

[fol. 2046] Sheet 37

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)

154-54 Other General Expenses

154-54-1 Law Expenses

The charges to this account are applicable to all activities.

Basis for Apportionment to Companies:

The charges included in this account are general in nature, and are applicable to natural gas, crude oil and gasoline activities. These charges shall be apportioned to the companies by operating departments in the proportion that the sum of the commercial, publicity, industrial engineering, administrative-production, administrative-pipe line, administrative-distribution, chemical, dispatching, engineering and valuation, geological, insurance and safety, land and lease, mapping, measurement, right of way and claims, rate, property tax, gasoline, and compressor stations departments apportioned charges to each company by operating department bears to the total apportioned charges of these departments to all companies and operating departments.

	Natural Gas					
Apportionment:	Production	Transmission	Distribution	Crude Oil	Gasoline	Total
United Gas Public Service Company	16.6%	24.3%	22.2%	.3%	2.9%	66.3%
United Production Corporation	5.1%	....	....	2.7%	...	7.8%
Southern Gas and Fuel Company	....	1.7%	....	...	...	1.7%
Northern Texas Utilities Company	.4%	1.7%	2.8%	...	...	4.9%
Houston Gulf Gas Company.	1.2%	3.2%	1.3%	...	...	5.7%
Houston Gas and Fuel Company	....	....	5.1%	...	...	5.1%
Southern Gas Company	.9%	3.4%	.1%	...	...	4.4%
Southern Gas Utilities, Inc.	1.5%	.6%	1.3%	...	...	3.4%
Compania Mexicana de Gas, S. A.	.1%	.6%	....	...	...	.7%
Total	25.8%	35.5%	32.8%	3.0%	2.9%	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-54 General Office—Other General Expenses
150-54-16 Proportion of Other General Expenses—General
150-54-16-1 Natural Gas—Production
150-54-16-2 Natural Gas—Transmission
150-54-16-3 Natural Gas—Distribution
150-54-16-5 Crude Oil
150-54-16-6 Gasoline

[fol. 2047] Sheet 38

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-54 Other General Expenses
154-54-3 Other Insurance

The charges to this account being confined to premiums on group life insurance, workmen's compensation and fidelity bonds of general office employes, are general in nature.

Basis for Apportionment to Companies:

The costs included in this account being general in nature, are applicable to natural gas, crude oil and gasoline activities. These charges shall be apportioned to the companies by operating departments in the proportion that the sum of the commercial, publicity, industrial engineering, administrative-production, administrative-pipe line, administrative-distribution, chemical, dispatching, engineering and valuation, geological, insurance and safety, land and lease, mapping, measurement, right of way and claims, rate, property tax, gasoline, and compressor stations departments apportioned charges to each company by operating department bears to the total apportioned charges of these departments to all companies and operating departments.

Apportionment:	Natural Gas			Crude Oil	Gasoline	Total
	Production	Transmission	Distribution			
United Gas Public Service Company	16.6%	24.3%	22.2%	.3%	2.9%	66.3%
United Production Corporation	5.1%	....	....	2.7%	...	7.8%
Southern Gas and Fuel Company	....	1.7%	....	...	...	1.7%
Northern Texas Utilities Company	.4%	1.7%	2.8%	...	...	4.9%
Houston Gulf Gas Company	1.2%	3.2%	1.3%	...	...	5.7%
Houston Gas and Fuel Company	....	....	5.1%	...	...	5.1%
Southern Gas Company	.9%	3.4%	.1%	...	...	4.4%
Southern Gas Utilities, Inc.	1.5%	.6%	1.3%	...	...	3.4%
Compania Mexicana de Gas, S. A.	.1%	.6%	....	...	...	.7%
Total	25.8%	35.5%	32.8%	3.0%	2.9%	100.0%

Account to be Charged by Companies:

150 General Office and General Expenses
150-54 General Office—Other General Expenses
150-54-16 Proportion of Other General Expenses—General
150-54-16-1 Natural Gas—Production
150-54-16-2 Natural Gas—Transmission
150-54-16-3 Natural Gas—Distribution
150-54-16-5 Crude Oil
150-54-16-6 Gasoline

[fol. 2048] Sheet 39

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-54 Other General Expenses
154-54- 5 Valuation and Regulatory commission expenses

This account shall include salaries and expenses incurred in transactions pertaining to or with governmental rate regulatory bodies.

Detailed classification provided for this account is as follows:

154-54- 5- 1	Valuation
154-54- 5- 2	Accounting
154-54- 5- 3	Load Factor
154-54- 5- 4	Legal
154-54- 5- 5	Other

Basis for Apportionment to Companies:

Since the cost of this department applies only to operations within the state of Texas, and a study having developed that approximately three fourths of the total charge to the account is applicable to gas transmision and one fourth to distribution, seventy five (75%) per cent shall be apportioned to those companies operating gas pipe lines in Texas and twenty five (25%) per cent shall be apportioned to those companies operating distribution system in Texas.

Of the seventy five (75%) per cent applicable to companies operating pipe lines, apportionment shall be made to each company in the proportion that the number of owned or affiliated distribution systems and delivery points to non-affiliated companies (within the state of Texas) of gas for resale bears to the total number of owned or affiliated distribution systems and delivery points to non-affiliated companies (within the state of Texas) of gas for resale to all such companies.

Of the twenty five (25%) per cent applicable to companies operating distribution systems, apportionment shall be made to each company in the proportion that the number of owned distribution systems (within the state of Texas) of such company bears to the total number of owned distribution systems (within the state of Texas) of all such companies.

[fol. 2049] Sheet 40

United Gas System

General Office and General Expenses

Nature of Expenses and Basis for Apportionment

154-54- 5 Valuation and Regulatory Commission Expenses

Apportionment:	Transmission	Distribution	Total
United Gas Public Service Company	41.3%	18.9%	60.2%
Northern Texas Utilities Company	15.2%	2.7%	17.9%
Houston Gulf Gas Company	7.6%	1.3%	8.9%
Houston Gas and Fuel Company		.2%	.2%
Southern Gas Company	6.0%	.2%	6.2%
Southern Gas Utilities, Inc.	4.9%	1.7%	6.6%
Total	75.0%	25.0%	100.0%

Account to be charged by Companies:

150 General Office and General Expenses
150-54 General Office—Other General Expenses
150-54-16 Proportion of Other General Expenses—General
150-54-16- 2 Natural Gas—Transmission
150-54-16- 3 Natural Gas—Distribution

[fol. 2050] Sheet 41

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-54 Other General Expenses
154-54-11 Medical Expenses

This account shall be charged with the salary and expenses of the medical examiner, and with medical supplies.

Basis for Apportionment to Companies:

The charges included in this account are general in nature, and are applicable to natural gas, crude oil and gasoline activities. These charges shall be apportioned to the companies by operating departments in the proportion that the sum of the commercial, publicity, industrial engineering, administrative-production, administrative-pipe line, administrative-distribution, chemical, dispatching, engineering and valuation, geological, insurance and safety, land and lease, mapping, measurement, right of way and claims, rate, property tax, gasoline, and compressor stations departments apportioned charges to each company by operating department bears to the total apportioned charges of these departments to all companies and operating departments.

Apportionment:	Natural Gas			Crude Oil	Gasoline	Total
	Production	Transmission	Distribution			
United Gas Public Service Company	16.6%	24.3%	22.2%	.3%	2.9%	66.3%
United Production Corporation	5.1%	....	....	2.7%	...	7.8%
Southern Gas and Fuel Company	....	1.7%	....	...	...	1.7%
Northern Texas Utilities Company	.4%	1.7%	2.8%	...	....	4.9%
Houston Gulf Gas Company	1.2%	3.2%	1.3%	...	...	5.7%
Houston Gas and Fuel Company	....	....	5.1%	...	...	5.1%
Southern Gas Company	.9%	3.4%	.1%	...	...	4.4%
Southern Gas Utilities, Inc.	1.5%	.6%	1.3%	...	...	3.4%
Compania Mexicana de Gas, S. A.	.1%	.6%	....	...	...	.7%
Total	25.8%	35.5%	32.8%	3.0%	2.9%	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-54	General Office—Other General Expenses
150-54-16	Proportion of Other General Expenses—General
150-54-16- 1	Natural Gas—Production
150-54-16- 2	Natural Gas—Transmission
150-54-16- 3	Natural Gas—Distribution
150-54-16- 5	Crude Oil
150-54-16- 6	Gasoline

[fol. 2051] Sheet 42

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154 General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)

154-54 Other General Expenses

154-54-22 Aerial Transportation Expenses

The charges to this account are applicable to all activities.

Basis for Apportionment to Companies:

The charges included in this account are general in nature, and are applicable to natural gas, crude oil and gasoline activities. These charges shall be apportioned to the companies by operating departments in the proportion that the sum of the commercial, publicity, industrial engineering, administrative-production, administrative-pipe line, administrative-distribution, chemical, dispatching, engineering and valuation, geological, insurance and safety, land and lease, mapping, measurement, right of way and claims, rate, property tax, gasoline, and compressor stations departments apportioned charges to each company by operating department bears to the total apportioned charges of these departments to all companies and operating departments.

Apportionment:	Natural Gas					
	Production	Transmission	Distribution	Crude Oil	Gasoline	Total
United Gas Public Service Company	16.6%	24.3%	22.2%	.3%	2.9%	66.3%
United Production Corporation	5.1%	....	....	2.7%	...	7.8%
Southern Gas and Fuel Company	....	1.7%	....	...	...	1.7%
Northern Texas Utilities Company	.4%	1.7%	2.8%	...	...	4.9%
Houston Gulf Gas Company	1.2%	3.2%	1.3%	...	...	5.7%
Houston Gas and Fuel Company	....	....	5.1%	...	...	5.1%
Southern Gas Company	.9%	3.4%	.1%	...	...	4.4%
Southern Gas Utilities, Inc.	1.5%	.6%	1.3%	...	...	3.4%
Compania Mexicana de Gas, S. A.	.1%	.6%	....	...	...	.7%
Total	25.8%	35.5%	32.8%	3.0%	2.9%	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-54	General Office—Other General Expenses
150-54-16	Proportion of Other General Expenses—General
150-54-16- 1	Natural Gas—Production
150-54-16- 2	Natural Gas—Transmission
150-54-16- 3	Natural Gas—Distribution
150-54-16- 5	Crude Oil
150-54-16- 6	Gasoline

[fol. 2052] Sheet 43

United Gas System

General Office and General Expenses

Nature of Expense and Basis for Apportionment

154	General Office and General Expenses—General to all companies (account carried by United Gas Public Service Company)
154-55	Maintenance of General Structures and Equipment (Telephone System)

This account shall include maintenance costs of the telephone system.

Basis for Apportionment to Companies:

Since maintenance costs of the telephone system are applicable only to those transmission companies owning telephone lines, apportionment shall be made to them in the proportion that the miles of owned telephone lines of each such company bears to the total miles of owned telephone lines of all such companies.

Apportionment:

United Gas Public Service Company	67.8%
Southern Gas and Fuel Company	3.3%
Houston Gulf Gas Company	8.0%
Southern Gas Company	16.9%
Compania Mexicana de Gas, S. A.	4.0%
Total	100.0%

Account to be Charged by Companies:

150	General Office and General Expenses
150-55	Maintenance of General Structures and Equipment
150-55- 2	Natural Gas—Transmission

[fol. 2053] Sheet 44

United Gas Public Service Company

General Office and General Expenses

Nature of Expense and Basis for Apportionment

150 General Office and General Expenses

150-50 General Office New Business Expenses

This account shall include specific and apportioned general office costs of natural gas transmission and distribution load building activities.

Detailed classification provided for specific charges is as follows:

150-50- 1	Rentals
150-50- 2	Advertising Salaries
150-50- 3	Advertising Supplies and Expenses
150-50- 4	Salesmanagement Salaries and Expenses
150-50- 5	Salesmen's Salaries and Expenses
150-50- 6	Demonstrations
150-50- 7	Miscellaneous New Business Supplies and Expenses

Detailed classification provided for apportioned charges is as follows:

150-50- 9- 2	Natural Gas—Transmission
150-50- 9- 3	Natural Gas—Distribution

Basis for Apportionment of Charges to Operating Departments:

Specific—The specific new business expenses, being applicable to natural gas transmission and distribution load building activities, shall be apportioned to these operating departments. This cost is directly related to the number of customers, and apportionment shall be made to these operating departments in the proportion that the annual

average number of customers of each bears to the sum of the annual average number of customers of both operating departments.

Apportioned—Since final distribution of apportioned costs has been initially determined, it is only necessary to transfer these expenses to appropriate operating accounts.

Apportionment of Specific Charges:

Natural Gas—Transmission	.9%
Natural Gas—Distribution	99.1%
Total	100.0%

[fol. 2054] Sheet 45

United Gas Public Service Company

General Office and General Expenses

Nature of Expense and Basis for Apportionment

150-50	General Office New Business Expenses (Cont'd):
	Account to be Charged by Operating Departments:
113-38- 1	Natural Gas Operating Expenses
113-38- 1- 2	Natural Gas—Transmission
113-38- 1- 3	Natural Gas—Distribution
93-25-19	Merchandise and Jobbing New Business Expenses—Transferred

Charges to the above operating department accounts, both specific and apportioned, shall be offset by a credit to account 150-59, "General Office Expenses—Distributed," which is the clearing account for all general office and general expenses.

The charge to account 113-38-1-2 shall be the total amount, both specific and apportioned, applicable to natural gas transmission expenses; and the charge to account 113-38-1-3 shall be the total amount applicable to natural gas distribution expenses, less an amount equal to one half of one per cent of the company's gross merchandise sales, which amount shall be charged instead to account 93-25-19.

[fol. 2055] Sheet 46

United Gas Public Service Company

Apportionment of General Office—New Business Expenses

	Total	Natural Gas	
		Transmission	Distribution
Rentals	100.0%	.9%	99.1%
Advertising Salaries	100.0%	.9%	99.1%
Advertising Supplies and Expenses	100.0%	.9%	99.1%
Salesmanagement Salaries and Expenses	100.0%	.9%	99.1%
Salesmen's Salaries and Expenses	100.0%	.9%	99.1%
Demonstrations	100.0%	.9%	99.1%
Miscellaneous New Business Supplies and Expenses	100.0%	.9%	99.1%
Proportion of General Office New Business Expenses—General:			
Commercial	71.2%	.....	71.2%
Publicity	63.5%	.....	63.5%
Industrial Engineering	56.8%	56.8%	.....
Transferred to Merchandise and Jobbing	100.0%*	.....	100.0%*

* Red in copy.

[fol. 2056] Sheet 47

United Gas Public Service Company

General Office and General Expenses

Nature of Expense and Basis for Apportionment

150 General Office and General Expenses

150-52 General Office—General Expenses

This account shall include specific and apportioned general office costs chargeable to operations.

Detailed classification provided for specific charges is as follows:

150-52- 1 Administrative and Other Office Salaries
150-52- 3 Office Supplies and Expenses
150-52- 4 Stationery and Printing
150-52- 5 Telephone and Telegraph
150-52- 6 Traveling Expenses
150-52- 9 Rentals
150-52-10 Other General Expenses

Detailed classification provided for apportioned charges is as follows:

150-52-11-1	Natural Gas—Production
150-52-11-2	Natural Gas—Transmission
150-52-11-3	Natural Gas—Distribution
150-52-11-5	Crude Oil
150-52-11-6	Gasoline

Basis for Apportionment of Charges to Operating Departments:

Specific—The charges included in this account are related to direct costs, and shall be apportioned to the operating departments on the basis of the proportion of direct operating expenses of each operating department to the total direct operating expenses of all operating departments. Direct operating expenses as here used is after all utilization expenses, customers expenses other than uncollectible accounts, and all direct new business expenses have been apportioned to the respective natural gas operating departments on a customer basis; and after excluding gas purchases and gas transportation charges from natural gas production expenses, fuel gas and shrinkage of gas from gasoline production expenses, and power and fuel gas and gas used in circulating systems from crude oil production expenses.

Apportioned—Since final distribution of apportioned costs has been initially determined, it is only necessary to transfer these expenses to appropriate operating department accounts.

[fol. 2057] Sheet 48

United Gas Public Service Company

General Office and General Expenses

Nature of Expense and Basis for Apportionment

150-52 General Office—General Expenses (Con'd):

Apportionment of Specific Charges:

Natural Gas—Production	31.2%
Natural Gas—Transmission	41.7%
Natural Gas—Distribution	20.5%
Crude Oil	.5%
Gasoline	6.1%
Total	100.0%

Account to be Charged by Operating Departments:

113-38-2	Natural Gas Operating Expenses
113-38-2-1	Natural Gas—Production
113-38-2-2	Natural Gas—Transmission
113-38-2-3	Natural Gas—Distribution
114-12	Gasoline Operating Expenses
115-12	Crude Oil Operating Expenses

Charges to the above operating department accounts, both specific and apportioned, shall be offset by a credit to account 150-59, "General Office Expenses—Distributed," which is the clearing account for all general office and general expenses.

Sheet 49

United Gas Public Service Company

Apportionment of General Office—General Expenses

General Office General Expenses:	Total	Natural Gas			Gasoline	Crude Oil	Carbon Black
		Production	Transmission	Distribution			
Administrative and Other Office Salaries	100.0%	31.2%	41.7%	20.5%	6.1%	.5%	...
Office Supplies and Expenses	100.0%	31.2%	41.7%	20.5%	6.1%	.5%	..
Stationery and Printing	100.0%	31.2%	41.7%	20.5%	6.1%	.5%	..
Telephone and Telegraph	100.0%	31.2%	41.7%	20.5%	6.1%	.5%	..
Traveling Expenses	100.0%	31.2%	41.7%	20.5%	6.1%	.5%	..
Rentals	100.0%	31.2%	41.7%	20.5%	6.1%	.5%	..
Other General Expenses	100.0%	31.2%	41.7%	20.5%	6.1%	.5%	..
Proportion of General Office General Expenses—General:							
Administrative—General	66.3%	16.6%	24.3%	22.2%	2.9%	.3%	..
Administrative—Production	56.4%	56.2%	....	....	...	.2%	..
Administrative—Pipe Line	68.4%	....	68.4%	....	...	..	..
Administrative—Distribution	72.6%	....	....	72.6%	....	..	..
Accounting and Treasury	66.3%	16.6%	24.3%	22.2%	2.9%	.3%	..
Chemical	78.3%	78.3%	....	....	....	..	..
Construction Accounting	66.3%	16.6%	24.3%	22.2%	2.9%	.3%	..
Dispatching	70.5%	....	70.5%	....	...	..	..
Engineering and Valuation	73.7%	7.9%	34.3%	31.5%	...	..	..
Geological	42.4%	42.4%	....	....	....	..	..
Insurance and Safety	58.0%	8.8%	28.8%	12.5%	4.6%	3.0%	.3%
Land and Lease	42.4%	42.4%	....	....	...	..	..
Mapping	42.4%	42.4%	....	....	...	..	..
Measurement	70.4%	33.1%	33.7%	3.6%	...	..	..
Right of Way and Claims	72.7%	13.8%	58.9%	....	...	..	..
Telephone System	69.2%	....	69.2%	....	...	..	..
Rate	63.0%	....	19.2%	43.8%	...	..	..
Property Tax	67.3%	8.8%	44.8%	10.5%	2.6%	.1%	.5%
Office Manager and Secretary	66.3%	16.6%	24.3%	22.2%	2.9%	.3%	..
Gasoline	100.0%	....	....	....	100.0%	..	..
Compressor Stations	75.8%	....	75.8%	....	.....	..	..

[fol. 2059] Sheet 50

United Gas Public Service Company

General Office and General Expenses

Nature of Expense and Basis for Apportionment

150	General Office and General Expenses
150-54	Other General expenses

This account shall include other general costs chargeable to operations.

Detailed classification provided for specific charges is as follows:

150-54- 1	Law Expenses
150-54- 2	Fire Insurance
150-54- 3	Other Insurance
150-54- 4	Supervision
150-54- 5	Valuation and Regulatory Commission Expenses
150-54- 6	Franchise Requirements
150-54- 7	Amortization of Franchises
150-54- 8	Employes Welfare
150-54- 9	Pensions
150-54-10	Claim Department Expenses
150-54-11	Medical Expenses
150-54-12	Injuries to Employes
150-54-13	Other Personal Injuries and Property Damage
150-54-14	Miscellaneous Accident Expenses
150-54-15	Undistributed Adjustments
150-54-17	Audit Fees
150-54-18	Donations
150-54-19	Other Miscellaneous
150-54-20	Provision for Uncollectible General Accounts

Detailed classification provided for apportioned charges is as follows:

150-54-16-1	Natural Gas—Production
150-54-16-2	Natural Gas—Transmission
150-54-16-3	Natural Gas—Distribution
150-54-16-5	Crude Oil
150-54-16-6	Gasoline

[fol. 2060] Sheet 51

United Gas Public Service Company

General Office and General Expenses

Nature of Expense and Basis for Apportionment

150-54 Other General Expenses (Con'td):

Basis for Apportionment of Charges to Operating Departments:

Specific—The charges made to account 150-54-5, "Valuation and Regulatory Commission Expenses," included in account 150-54, being applicable only to natural gas transmission and distribution, shall be apportioned to these operating departments on the basis of the proportion of direct operating expenses of each operating department to the total direct operating expenses of both operating departments. Direct operating expenses as here used is after all utilization expenses, customers expenses other than uncollectible accounts, and all direct new business expenses have been apportioned to the respective natural gas operating departments on a customer-basis.

Other specific costs included in account 150-54, after transfer of merchandise insurance from account 150-54-2, "Fire Insurance," to account 93-25-24, "Merchandise and Jobbing Insurance on Merchandise Stock," and transfer of automobile insurance from account 150-54-3, "Other Insurance," to account 76-4, "Transportation Expenses—Equilization," are related to direct costs, and shall be apportioned to the operating departments on the basis of the proportion of direct operating expenses of each operating department to the total direct operating expenses of all operating departments. Direct operating expenses as here used is after all utilization expenses, customers expenses other than uncollectible accounts, and all direct new business expenses have been apportioned to the respective natural gas operating departments on a customer basis; and after excluding gas purchases and gas transportation charges from natural gas production expenses, fuel gas and shrinkage of gas from gasoline production expenses, and power and fuel gas and gas used in circulating systems from crude oil production expenses.

Apportioned—Since final distribution of apportioned costs has been initially determined, it is only necessary to transfer these expenses to appropriate operating department accounts.

[fol. 2061] Sheet 52

United Gas Public Service Company

General Office and General Expenses

Nature of Expense and Basis for Apportionment

150-54 Other General Expenses (Cont'd):

Apportionment of Specific Charges:

	Valuation and Regulatory Commission Expenses	Other Specific Expenses
Natural Gas—Transmission	67.1%	41.7%
Natural Gas—Production	....	31.2%
Natural Gas—Distribution	32.9%	20.5%
Crude Oil	....	.5%
Gasoline	....	6.1%
Total	100.0%	100.0%

Account to be Charged by Operating Departments:

113-38-2	Natural Gas Operating Expenses
113-38-2-1	Natural Gas—Production
113-38-2-2	Natural Gas—Transmission
113-38-2-3	Natural Gas—Distribution
114-12	Gasoline Operating Expenses
115-12	Crude Oil Operating Expenses
93-25-24	Merchandise and Jobbing—Insurance on Merchandise Stock
76-4	Transportation Expenses—Equalization

Charges to the above operating department accounts, both specific and apportioned, shall be offset by a credit to account 150-59, "General Office Expenses—Distributed," which is the clearing account for all general office and general expenses. The sum of the charges to accounts 113-38-2-1, 113-38-2-2, 113-38-2-3, 114-12, and 115-12 shall equal the total charges in account 150-54, less amounts transferred to accounts 93-25-24 and 76-4.

[fols. 2062-2127] Sheet 53

United Gas Public Service Company

Apportionment of Other General Expenses

		Natural Gas				
	Total	Production	Transmission	Distribution	Gasoline	Crude Oil
Law Expenses	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Fire Insurance*	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Other Insurance**	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Supervision and Consultation Fees	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Valuation and Regulatory Commission Expenses	100.0%	....	67.1%	32.9%	...	..
Franchise Requirements	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Employes Welfare Department	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Pensions	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Claim Department Expenses	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Medical Expenses	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Injuries to Employes	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Other Personal Injury and Property Damage	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Miscellaneous Accident Expenses	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Undistributed Adjustments	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Audit Fees	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Donations	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Other Miscellaneous	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Provision for Uncollectible General Accounts	100.0%	31.2%	41.7%	20.5%	6.1%	.5%
Proportion of Other General Expenses—General:						
Law Expense	66.3%	16.6%	24.3%	22.2%	2.9%	.3%
Other Insurance	66.3%	16.6%	24.3%	22.2%	2.9%	.3%
Valuation and Regulatory Commission Expenses	60.2%	....	41.3%	18.9%	...	..
Medical Expenses	66.3%	16.6%	24.3%	22.2%	2.9%	.3%
Aerial Transportation Expenses	66.3%	16.6%	24.3%	22.2%	2.9%	.3%
Maintenance of General Telephone System	67.8%		67.8%			

* Insurance on Merchandise Stock transferred to Merchandise and Jobbing.
** Auto and Truck Insurance transferred to Auto and Truck Equalization.

• • • • • • •

[fol. 2128] Defendant's Exhibit No. 8, of which the following is a true and correct transcript, was offered in evidence while the Witness M. A. Abernathy was testifying and was introduced by defendant and identified as shown on page 437, volume I, of this Statement of Facts and Transcript.

[fol. 2129] DEFENDANT'S EXHIBIT No. 8

Southern Gas Company

Carolina-Texas Field

Gathering System Investment

Estimated Investment as of November 1, 1929	$25,597.00
Rearrangement Expense November and December, 1929	7,375.00
Total Investment during year 1930	$32,972.00
Additional Expense during 1930 and 1931	8,741.00
Total Expenditures by Southern Gas Company	$41,713.00
Less Property Retirements	4,420.00
Net Investment 1931-1932-1933	$37,293.00

NOTE.—The additional expense of $8,741.00 was incurred during the latter part of 1930 and the early part of 1931, and for the purpose of this report is assumed that the effective date of all of these additions was January 1, 1931. Similarly, the property retirements of $4,420.00 (although these lines have not actually been removed) could have been made in 1930 and 1931 and the effective date of these retirements is also taken as January 1, 1931.

3-7-34.

[fol. 2130] Southern Gas Company

Computation of Reasonable Gathering Charge

Carolina-Texas Field

Years 1932-1933

The investment shown below is the estimated expenditure made by Southern Gas Company to provide South Texas Gas Company with gathering line facilities. The maintenance expense is the proportionate part of the Southern Gas Company's actual maintenance expense for the year 1933 prorated to the Carolina-Texas Field on the basis of the average of the lineal mile and 3" equivalent miles of gathering line.

Investment—Years 1932-1933	$37,293.00

Operating Expenses:

1. Return @ 7%	$2,610.51
2. Reserve for depreciation @ 10%	3,729.30
3. Gathering line maintenance	188.03
4. Supervision and general expense	259.02
Total Operating Expenses	$6,786.86

Unit Operating Expense:

Year	M. C. F. Gathered (2#-14.4#)	Expense	Cent per M. C. F.
1932	601,257	$6,786.86	$.0113
1933	503,238	6,786.86	.0135
Total 1932-1933	1,104,495	$13,573.72	$.0123

3-7-34.

[fol. 2131] Southern Gas Company

Computation of Reasonable Gathering Charge

Carolina-Texas Field

Years 1932-1933

The investment shown below is the estimated expenditure made by Southern Gas Company to provide South Texas Gas Company with gathering line facilities. The maintenance expense is based upon the unit cost of maintaining all gathering lines of the United Gas System during the year 1933. This is allocated to the Carolina-Texas Field on the basis of the weighted average of the cost of maintenance per lineal mile of gathering line and per gathering line meter station.

Investment—Years 1932-1933 ..... $37,293.00

Operating Expenses:

1. Return @ 7%	$2,610.51
2. Reserve for depreciation @ 10%	3,729.30
3. Gathering line maintenance	354.83
4. Supervision and general expense	259.02
Total Operating Expenses	$6,953.66

Unit Operating Expense:

Year	M. C. F. Gathered (2#-14.4#)	Expense	Cost per M. C. F.
1932	601,257	$6,953.66	$.0116
1933	503,238	6,953.66	.0138
Total 1932-1933	1,104,495	$13,907.32	$.0126

3-6-34.

[fol. 2132] Southern Gas Company

Computation of Gathering Charge in Carolina-Texas Field —on Basis Employed by Railroad Commission in Opinion and Order of June 13, 1933

Years 1932-1933

The expenses are based upon the opinion rendered by the Railroad Commission of Texas using as the investment the estimated investment of the Southern Gas Company in the Carolina-Texas Field gathering system. On this basis an operation charge of 10% of the investment is used as set forth in the Railroad Commission's opinion.

Investment—Years 1932-1933	$37,293.00
Operating Expenses:	
1. Return @ 7%	$2,610.51
2. Reserve for depreciation @ 3%	1,118.79
3. Operation @ 10%	3,729.30
Total Operating Expenses	$7,458.60

Unit Operating Expense:

Year	M. C. F. Gathered (2#-14.4#)	Expense	Cost per M. C. F.
1932	601,257	$7,458.60	$.0124
1933	503,238	7,458.60	.0148
Total 1932-1933	1,104,495	$14,917.30	$.0135

3-7-34.

[fol. 2133] South Texas Gas Company

Gathering Lines—Carolina-Texas Field

Reproduction Cost New, Less Depreciation, Less Retirements

Estimated Reproduction Cost:

1. Cost of System as it existed on November 1, 1929	$28,646.00
2. Cost of additions made to System after November 1, 1929	8,629.00
Total Cost	$37,275.00
Less Retirements	4,420.00
	$32,855.00
Depreciated value based on 84% condition	$27,598.00

NOTE.—The condition of the gathering system is assumed to be the same as that of the pipe line from Pescadito Junction to the Carolina-Texas Field, namely, 84%.

The property retirements listed above consist of 1369 feet of 4" pipe and 4 meter stations which could have been removed during 1930 and 1931.

3-7-34.

[fol. 2134] South Texas Gas Company

Computation of Reasonable Gathering Charge

Carolina-Texas Field

Years 1932-1933

The investment shown below is the estimated reproduction cost, less depreciation, of Southern Gas Company's gathering system in the Carolina-Texas Field. The maintenance expense is the proportionate part of the Southern Gas Company's actual maintenance expense for the year 1933 prorated to the Carolina-Texas Field on the basis of the average of the lineal mile and 3" equivalent miles of gathering line.

Investment—Years 1932-1933	$27,598.00

Operating Expenses:

1. Return @ 7%	$1,931.86
2. Reserve for depreciation @ 10%	2,759.86
3. Gathering line maintenance	188.03
4. Supervision and general expense	259.02
Total Operating Expenses	$5,138.71

Unit Operating Expense:

Year	M. C. F. Gathered (2#-14.4#)	Expense	Cost per M. C. F.
1932	601,257	$5,138.71	$.0085
1933	503,238	5,138.71	.0102
Total 1932-1933	1,104,495	$10,277.42	$.0093

3-7-34.

[fol. 2135] South Texas Gas Company

Computation of Reasonable Gathering Charge

Carolina-Texas Field

Years 1932-1933

The investment shown below is the estimated reproduction cost, less depreciation, of Southern Gas Company's gathering system in the Carolina-Texas Field. The maintenance expense is based upon the unit cost of maintaining all gathering lines of the United Gas System during the year 1933. This is allocated to the Carolina-Texas Field on the basis of the weighted average of the cost of maintenance per lineal mile of gathering line and per gathering line meter station.

Investment—Years 1932-1933	$27,598.00

Operating Expenses:

1. Return @ 7%	$1,931.86
2. Reserve for depreciation @ 10%	2,759.80
3. Gathering line maintenance	354.83
4. Supervision and general expense	259.02
Total Operating Expenses	$5,305.51

Unit Operating Expense:

Year	M. C. F. Gathered (2#-14.4#)	Expense	Cost per M. C. F.
1932	601,257	$5,305.51	$.0088
1933	503,238	5,305.51	.0105
Total 1932-1933	1,104,495	$10,611.02	$.0096

3-7-34.

[fol. 2136] South Texas Gas Company

Computation of Gathering Charge in Carolina-Texas Field —on Basis Employed by Railroad Commission in Opinion and Order of June 13, 1933

Years 1932-1933

The expenses are based upon the opinion rendered by the Railroad Commission of Texas using as the investment the estimated reproduction cost, less depreciation, of the Southern Gas Company's gathering system in the Carolina-Texas Field. On this basis an operation charge of 10% of the investment is used as set forth in the Railroad Commission's opinion.

Investment—Years 1932-1933	$27,598.00
Operating Expenses:	
1. Return @ 7%	$1,931.86
2. Reserve for depreciation @ 3%	827.94
3. Operation @ 10%	2,759.80
Total Operating Expenses	$5,519.60

Unit Operating Expense:

Year	M. C. F. Gathered (2#-14.4#)	Expense	Cost per M. C. F.
1932	601,257	$5,519.60	$.0092
1933	503,238	5,519.60	.0110
Total 1932-1933	1,104,495	$11,039.20	$.0100

3-7-34.

[fol. 2137] South Texas Gas Company

Computation of Reasonable Gathering Charge, Carolina-Texas Field, on Basis of Gas Produced from Sands Known November 1, 1929

Years 1932-1933

The investment shown below is the estimated reproduction cost, less depreciation, of Southern Gas Company's gathering system in the Carolina-Texas Field. The maintenance expense is the proportionate part of the Southern Gas Company's actual maintenance expense for the year 1933 prorated to the Carolina-Texas Field on the basis of the average of the lineal mile and 3" equivalent miles of gathering line.

Investment—Years 1932-1933	$25,799.00
Operating Expenses:	
1. Return @ 7%	$1,805.93
2. Reserve for depreciation @ 10%	2,579.90
3. Gathering line maintenance	188.03
4. Supervision and general expense	259.02
Total Operating Expenses	$4,832.88

Unit Operating Expense:

Year	*M. C. F. Gathered (2#-14.4#)	Expense	Cost per M. C. F.
1932	375,163	$4,832.88	$.0129
1933	308,569	4,823.88	.0157
Total 1932-1933	683,732	$9,665.76	$.0141

[fols. 1-186] [File endorsements omitted]

* Note.—M. C. F. gathered on this statement includes [fols. 2138-2472] only gas produced from sands known to exist on November 1, 1929. The production from the 2200' sand has been excluded as it was not discovered until 1931. 3-7-34.

[fol. 187] **Defendant's Exhibit No. 13**

Testimony of A. D. GREENE

By Mr. Lange:

Q. Now, Mr. Greene, with reference to the transmission lines that you say are used and useful in serving Laredo, you say this map correctly represents the line shown in red as being the one necessary and used and useful in serving the City of Laredo?

A. Yes.

Q. For the reporter's record, in order to get this accurately, this is the point on this map marked "Aguilares"; that is a junction point?

A. Yes.

Q. That is on the main transmission lines between Laredo and Carolina-Texas field?

A. Yes.

Q. This line that runs from Aguilares to Mirando City and to Oilton, under what theory do you include that in the transmission line used and useful to serve the City of Laredo?

A. That is part of the interconnected system used to serve Laredo.

Q. In what way does it serve Laredo?

A. It is part of the interconnected system.

Q. Isn't the line to Roma a part of the interconnected system?

A. Yes.

Q. Is it used and useful to serve Laredo?

[fol. 188] A. No sir.

Q. Then why include this?

A. In this particular line from Aguilares to Oilton we have allocated a portion of our transmission appraisal out on the basis of M. C. F.

Mr. Coates: That is a portion of your entire transmission appraisal?

A. Yes.

Q. Why then didn't you include the Roma line in that allocation?

A. That is not within the system that serves Laredo.

Q. That is true, but supposing there was a line running from Aguilares, and running down to Hebronville, would you include that in the same system?

A. Yes, if there were such a line we would include it.

Q. And the Laredo meters being the greater number, their allocation would get the worst of it?

A. No sir, I believe in our figures, I have not checked this, but I believe we have given Laredo a break in the way we figured it.

Q. That is just a concession then?

A. No sir, because we believe that is the proper method of figuring it.

Q. You say you are positive that this line from Aguilares to Mirando City and Oilton, that serves consumers, and does not gather any gas, is a part and parcel of the trans- [fol. 189] mission line system used and useful in serving the City of Laredo?

A. Yes, and at one time part of that line was used in serving Laredo over there.

Q. Wasn't that line taken up and put back again to serve Mirando?

A. It was taken up.

Q. After its usefulness was expired?

A. Yes.

Q. And its only useful purpose was to serve Oilton and Mirando City?

A. Yes, and we have allocated that out.

Q. I want to know how that line is useful to serve Laredo?

A. It is a part of our interconnected system that serves Laredo.

Commissioner Thompson: Is it true that no gas flow- through that line towards Laredo?

A. No gas flows at this time from Mirando City or Oilton to Laredo; we have made the allocation on that basis.

Mr. Coates: That is, the entire interconnected system in there has first been appraised, and then a portion of the entire interconnected system has been allocated out, and deducted.

Commissioner Thompson: But there is no useful purpose, so far as Laredo is concerned, on that line?

Mr. Coates: At this time there is no gas flowing through that line towards Laredo. It is still installed, and at some [fol. 190] future time gas may flow through there, but what we have taken here is the transmission system which is interconnected, and takes its gas from widely separated points, and having taken that, we have allocated a portion

of that entire system, Carolina-Texas, Jennings, and everything else to those smaller towns, Mirando City and Oilton, and have allocated only a portion of those lines to Laredo, and so it is a complete allocation.

Mr. Stanberry: Mr. Coates, if you should just eliminate that line, and take out that percentage of the allocation on the meter basis, do you figure it would make much difference; if you left the line out of the picture, and left the income out of the picture?

Mr. Coates: And then put in against Laredo the whole of the Laredo line?

Mr. Stanberry: Yes.

Mr. Coates: I think not, Mr. Stanberry, although I have not made, or had made, anything except quick figures on that, and the quick figures indicated it would make very little difference, and if there was a difference it would be in favor of Laredo.

Mr. Stanberry: The cost of the whole interconnecting system is distributed on a meter basis?

Mr. Coates: On an M. C. F. basis.

Mr. Stanberry: And the meters at Mirando City and Oilton are deducted from the whole picture; that is, they [fol. 191] are given their proper share?

Mr. Coates: The M. C. F. deliveries, or a portion based on that, is deducted.

Mr. Stanberry: Does that include the industrial at Mirando City?

Mr. Coates: Yes, miscellaneous pipe line sales, industrial and commercial and residential and everything else.

A. We have taken out 7.15 per cent to provide for that.

Mr. Coates: We have not given consideration to the direction in which gas is flowing in this month of October.

Commissioner Thompson: You are not required to do that.

Mr. Coates: Yes. And of course the reason we took the Laredo section, and not the Roma section, is because that line does not bring any gas, and we do not contemplate that that Roma line will ever bring any gas in the immediate future into this section, and so we have taken that transmission system and set apart and appraised the Laredo section of that Mirando section, and have allocated that Laredo section to the various towns served by that section.

Mr. Lange: The Commission could readily see that that

allocation would not reflect a fair percentage to the City of [fol. 192] Laredo, because the M. C. F. consumed, I think the record will diclose, is so far less to these two places, taking into consideration the length of line pipe used in that average, that it would be an unfair allocation to Laredo to include that unnecessary unit.

Mr. Stanberry: I want you to develop this feature of it, and that is why it was made on an M. C. F. basis instead of a meter basis, this allocation of investment expense, because in the smaller towns the M. C. F. per consumer is a whole lot less than in the larger towns, and I would like to know what difference it would make if these allocations were made on a meter basis instead of an M. C. F. basis.

Mr. Lange: Of course, we believe in either event on that particular line, Laredo would not get a fair percentage, because of the small number of meters they have, as compared with Laredo, and if Laredo does not need that line I see no good readon for making any allocation that would place a burden on Laredo; we have such a large number of meters as compared with them.

Mr. Coates: Then we would have to put back into the appraisal 100 per cent as to the remainder of the line.

Mr. Lange: We get all this without an extra burden being placed on us, and the others are on the main line transmission system.

Commissioner Thompson: The point you are making is [fol. 193] as to whether or not it is advantageous to Laredo or how it comes out, it should come out?

Mr. Lange: Yes.

Commissioner Thompson: You can prove that by your own witnesses.

Mr. Coates: You mean he can offer testimony on it?

Commissioner Thompson: He can endeavor to prove it, Yes.

Mr. Lange: We will try to prove that.

By Mr. Lange:

Q. Now, Mr. Greene, of course you do not know, or have not testified as to from which area gas is being taken to serve Laredo during the past year?

A. No sir.

Q. The gathering systems that you have in your appraisal; where do they lie?

A. In the Jennings field.
Q. Show it on the map.
A. The red line shown there in the Jennings field.
Q. The red line shown in the Jennings field?
A. Yes.
Q. What is the total mileage of those lines?
A. I could not tell you.
Q. Are they of different size?
A. Yes.
Q. What size mains are those, outside diameter?

[fol. 194] Mr. Stanberry: Is all of the Jennings system charged to Laredo?

A. No sir.

Mr. Stanberry: Is it allocated on the basis of M. C. F. coming to Laredo and going to Roma and to Houston?

A. No sir.

Mr. Stanberry: How is it allocated?

A. A portion of it is allocated on the basis of 30 per cent to Laredo and 70 per cent to the Monterrey line.

Commissioner Thompson: You had five methods of dividing that, and that is what you gave us yesterday?

A. Yes.

Commissioner Thompson: You had five factors, and took a composite of it?

A. Yes, those lines scale down from 8 and five-eighths inches O. D. down to 2 and three-eighths inches O. D.

Q. Can you give the Commission the total mileage in this part of your gathering system; that is, the one line, I suppose it would be southeast of the line running from Jennings Junction to Jim Hogg, marked in red on the map here?

A. Yes, that consists of 13,856 feet of 8 and five-eighths inch O. D., 11,308 feet, 6 and five-eighths inch O. D.; 9,114 feet of 4 and one-half inch O. D., and 368 feet of 2 and three-eighths inch O. D.

[fol. 195] Q. And the total number of feet.

A. I have not got it, but I can add it up for you.

Q. All right.

A. 34,646 feet.

Q. What do you show is the depreciated value of that as a total?

A. I have not got it totalled; I have 30 per cent of it totalled.

Q. Can you estimate the total?

A. It would be a rather long calculation; I would have to multiply each of them out in units.

Q. Can you give that to the reporter?

A. I can give you approximately what it is by working it out on the slide rule.

Mr. Stanberry: That back line from Carolina-Texas Junction to the Jennings Junction, that line there, that green line, supplies the Rio Grande Valley Gas Company, and the two principal sources of supply is at Bruni and at Jennings; on that theory does that gathering system to the southeast, and that part of the red and green line, that any part of it is allocated to Laredo, when the two sources of supply are Jennings and Bruni?

Mr. Lange: Yes, and we will prove to the Commission later that that belongs out, and that it is neither used nor useful to serve Laredo.

Mr. Coates: You will prove that?

[fol. 196] Mr. Lange: Yes, I am not a prophet or a son of a prophet, but we will do that.

Commissioner Thompson: It is my understanding that neither the green nor the red and green lines are charged to Laredo.

A. That is correct.

Commissioner Thompson: You testified that they were not yesterday?

A. Yes.

By Mr. Lange:

Q. But this was charged to Laredo, this solid red.

Commissioner Thompson: And you are challenging that?

Q. Yes.

Mr. Coates: 30 per cent of that was charged up.

Q. We are challenging the total item there.

Commissioner Thompson: 30 per cent of it, or whatever is charged is what you are challenging now?

Q. Yes.

A. It is about $35,000 reproduction cost new on that; no, that is $35,000 depreciated; that is the cost new less depreciation, and about $42,200 would be the cost new.

Q. $35,000 depreciated, and $42,200 cost new?

A. Yes.

Q. As I understand it, that is the gathering system in a distance approximately southeast of the main line from [fol. 197] the Jennings Junction to the Jim Hogg Junction, which main line is shown on the map in checkers of red and green; is that correct—that is, this gathering line you have just given the reporter the value on lies approximately southeast of the main line shown on the map as Jennings Junction to Jim Hogg Junction line, shown in blocks of red and green?

A. Yes, that is correct.

Q. And this total gathering line is shown entirely in red?

Commissioner Thompson: That is in the Jennings field?

Q. In the Jennings field. Mr. Greene, do you know when this gathering line was put in?

A. No sir.

Q. Who would know in your organization?

A. I do not believe there is anybody in our organization who is present here that could testify to that.

Q. Have you available any records which would reflect when that gathering system was put in, or approximately how long it has been in?

A. I think we can find out.

Q. Have you any idea in making your appraisal, did you endeavor to find out about when that was put in?

A. No sir.

Q. Do you know why that was put in, why that gathering system was put in?

A. I only know that it was put in in order to gather the [fol. 198] gas in that area.

Q. But you do not know when?

A. No sir.

Q. And you don't know why? You do not know what territory it was intended to serve when it was put in?

A. No sir.

Q. Do you know of anyone in your organization who would know that?

A. You mean present here, no sir.

Q. Where would they be located?

A. We could get that information out of Houston.

Q. Who in Houston would have that available?

A. Our superintendent of production.

Q. What is his name?
A. Ed Parks.

Mr. Stanberry: Wasn't that back loop put in there when the high pressure gas was found at Jennings in order to supply the Houston line, or the San Antonio line?
A. I do not know, sir.

Q. Mr. Greene, do you know what areas this Jennings field serves gas to in that area, what pipe lines, or what towns?
A. In a general way, yes. That feeds gas into the South Texas gas going to Roma, and in the line going to Laredo.
Q. Any other lines?
A. I think not, no sir.
[fol. 199] Q. When did it serve Laredo, do you know?
A. There is gas in that line constantly.
Q. Were there any deliveries during the fiscal year ending July 31, 1932?
A. Yes.
Q. Do you know approximately how much?
A. No sir.
Q. Is that record available?
A. I think so.
Q. Where, here or at Houston?
A. Here, I believe.
Q. Who would have that information?
A. I think Mr. Coates could give you that information, I am not certain.
Q. Do you think that Mr. Coates, or is there anyone in Laredo who can give that?

Mr. Coates: Yes, I expect there are a half dozen who could.

Q. The amount of gas in the fiscal year ending July 31, 1932, from Jennings Junction.

Mr. Coates: Yes sir.

Q. In other words, that is an open line, and has been open all of last year?
A. It was not open all the year, it was down part of the year for repairs.
Q. That is why it was closed?
A. Yes.

[fol. 200] Q. Do you know—you stated that in your opinion the gas that is gathered in this gathering system in this Jennings area just served the Laredo area and Monterrey?

A. In general, yes. So far as I know, there is no gas that goes in the other direction.

Q. There is no gas going north to the Jim Hogg Junction?

A. I think not, but I am not positive about it.

Q. And the Jim Hogg Junction, there is a dotted black line going in a southeast direction marked "Going to Rio Grande Valley points."

A. Yes.

Q. And this line is running in a northeast direction here up to San Antonio, and also on to Houston?

A. Yes.

Q. And the dotted 12 inch line on here marked "To Roma" is a transmission line which carries gas to Monterrey, Mexico?

A. That is right.

Q. Do you know the distance from Jennings Junction to Roma, the lineal feet of that pipe line?

A. It is 46 or 48 miles.

Q. Between 46 and 48 miles?

A. Yes.

Q. 47 would be an average?

A. I think I can give you that figure. I think it is about 47 miles.

[fol. 201] Q. Do you know when that was connected on to the Jennings Junction?

A. No sir, I do not know the date that line was built.

Q. Does your company have a map showing the wells and the names of the well- that are hooked up in this Jennings area on all the gathering lines in the Jennings area?

A. Yes.

Q. Who would have that available?

A. I think I have one of those.

Q. Does that name the wells so they could be identified on there?

A. Yes.

Q. Could you give the reporter the wells that are hooked up in that Jennings area by name?

A. I think so, yes, as shown by my map.

Q. Does that map you have accurately reflect the total number of wells hooked up in that area?

A. It was given to me to reflect that data.

Mr. Coates: Is that the wells hooked up at this time, or when was that map made?

A. This is corrected as of the 27th of September.

Q. Of 1932?

A. 1932.

Q. All right.

A. We have Cuellar No. 1; South Texas Production Com-
[fol. 202] pany, Jennings No. 10; South Texas Production Company, Jennings No. 5.

Q. Now, for the record, as soon as you get through with all wells hooked up on the Jennings line that connects at Pescadito, will you stop then so we can distinguish those wells from the wells on the other gathering systems?

A. Yes. South Texas Production Company, Jennings No. 1; No. 2 and No. 4; that comprises a list on that line.

Q. They are hooked on to the line Jennings Junction, and running northwest to the main line junction at Pescadito?

A. Yes.

Q. All right, now the wells that are at present connected to the gathering system about which you testified to awhile ago as being represented entirely in red and lying southeast of the checkered red and green main transmission lines.

A. All right. That is Killiam Martinez No. 1; United Production Corporation, Martinez No. 1, No. 5, No. 3 and No. 4; South Texas Production, Martinez No. 1; South Texas Production, Jennings No. 6; South Texas Production Company, Gutierrez No. 1; that is 8 wells.

Mr. Stanberry: Right here is one thing I want to ask at this time. Is this production that is up on the Jennings to Laredo line, is that the new field, and high pressure gas, or is the new field and high pressure gas on that gathering system over to the southwest there?

[fol. 203] A. I cannot answer that, Mr. Stanberry; I can tell you what I think. I think that they do——

Mr. Coates: Never mind about guessing; if you want to know that we will get somebody who is in the transmission department who can tell you.

Commissioner Thompson: The witness says he does not know.

Q. We would like to know; who in your organization can give us that information?

Mr. Coates: We will have him on the stand so you can question him.

Q. All right. Getting back to your answer, those wells that you have just given the names of constitute all the wells in this Jennings area that are hooked on to the two main transmission lines, one line running from Jennings to Pescadito, and the other from Jennings to Jim Hogg Junction?

A. I think I missed one. This is Southern Gas Utilities Hinnant No. 4.

Q. On which line is that?

A. Here.

Q. That is on the main transmission line between Jennings Junction and Jim Hogg Junction?

A. Yes.

Mr. Coates: Mr. Greene, if I may interrupt, what you are testifying to, is the wells that were hooked up as of Septem-
[fol. 204] ber 27, 1932; you are not attempting to say these are all the wells that were hooked up during the 12 months preceding, or that all of these wells have been hooked up during the 12 months preceding, but that is the spot for that day?

A. That is right, and that is the information contained on my map which was given to me.

Q. Then I suppose there is someone in your organization who can give an accurate list of the wells from which gas was delivered into the transmission system for the fiscal year ending July 31, 1932?

A. I believe so.

Q. And where that gas was delivered to?

A. Yes.

Q. I do not know whether you stated or not whether you knew what field is supplying the Rio Grande Valley line shown in black?

A. That is being supplied from the Bruni field.

Q. Entirely or not?

A. It is entirely at present.

Q. I mean in the past fiscal year.

A. I think not in the past year, no.

Q. Do you know whether any of this gas out of the gathering system that you have given the value on shown entirely in red was delivered to Jim Hogg Junction for the valley points?

[fol. 205] A. It was not none of it, no sir.

Q. Do you know how much, if any, or all of the gas out of this red gathering system you were speaking of, was delivered to Roma?

A. I do not have the percentage.

Q. Do you have someone in your organization who has that accurately for the past fiscal year?

A. Yes.

Q. Now, with reference to the gathering line, have you any gathering lines that you are still including in your appraisal, the line of the Carolina-Tex. field?

A. No sir.

Q. Whose gathering lines are these shown in green?

A. The Southern Gas Company.

Q. Do you have a list of the gas wells hooked on to the South Texas line marked 13.5 miles, 6 inch, at the extreme northeastern end of the South Texas line, have you a list of the wells hooked on to that line?

A. I have a list of them, a similar list to the one I just gave you, yes.

Q. All right, for the record, that line is marked in red on the map.

Mr. Coates: That is the transmission line is so marked?

The transmission line, yes.

A. Do you want me to read all of these?

[fol. 206] Q. How many are there? Just give us the total number of them.

A. I count 12.

Mr. Stanberry: That map over there shows 14.

Q. I am speaking, Mr. Greene, south of this checkered black line, this black mark here which mark appears at the end of the 13.5 mile line, transmission line shown in red.

A. South of there there are none.

Q. None hooked on there at all?

A. No sir.

Q. Where is the division line valve of the South Texas line on this 13.5 miles main line, and the Southern?

A. It is the meter station at the black square shown there.

Q. That is the meter station; is that the cut off valve? Is that the end of the line?

A. That is the end of the South Texas Gas Company's line.

Q. The green portion that continues on is Southern Gas?

A. Yes.

Q. And then the one here that is checkered, that is the

main transmission line of the Southern Gas Company connecting up with the San Antonio transmission line?

A. That is right.

Q. Then from the black squares shown on the map as representing the end of the 13.5 miles main transmission line, there are no wells hooked on to the line southwest of that?

A. No sir, there are not.

[fol. 207] Q. None whatsoever?

A. No sir.

Q. Then any gas that goes into Laredo on that line would come out of what wells?

A. They would come out of the well in the Carolina-Tex. field; I do not know which particular well by name.

Q. They may be connected on to this green system?

A. Yes.

Q. Which is immediately southeast of the end of the 13.5 main transmission line shown in red.

A. Northeast.

Q. Northeast. Is there any gas serving Laredo during the last fiscal year that has come through the 13.5 mile line that would be gathered in this gathering system shown in green?

A. Yes.

Q. And south of that black division line there were no wells hooked up last year?

A. No sir.

Q. Did you say that the number of wells shown in this green gathering system reflected the correct number during the past fiscal year?

A. No sir.

Q. Some go on and some go off?

A. Yes.

Q. But your company has accurate records on that and will show it?

[fol. 208] A. Yes.

Q. As to which wells delivered gas to Laredo in the past fiscal year?

A. Yes sir.

Q. You do not know of your own knowledge, of course, where Laredo got its gas in the past fiscal year, as to whether it came from this Carolina-Tex. field area or the Jennings area?

A. I know it got gas from both sources, but I cannot give you the amounts.

Q. Beginning at the Jennings Junction and proceeding northeast along the main transmission line shown in checkers of red and green, and continuing on in the main transmission line shown in green; that is a continuous main transmission line serving San Antonio and Houston?

A. No sir, that is not correct. The gas flows the other way there.

Q. Entirely?

A. Yes.

Q. The gas coming out of the Bruni field goes to Monterrey?

A. It may go to Monterrey, yes.

Q. Do you think any of it may go to the Rio Grande Valley?

A. Yes, that is the principal source of supply for the Rio Grande Valley.

Q. And it only flows in a southerly direction, and none of it goes north?

[fols. 209-223] A. No sir.

Q. Do you know how much of the gas of this Carolina-Texas field, or do any of your men know, shown in the green gathering line system, is delivered to the main transmission line shown going to San Antonio or Houston?

A. There is none going that way now, but I am not certain about the past fiscal year.

Q. When this line is utilized—the one in green checkers is the one that I am talking about, running in a southeasterly direction to the Carolina-Tex. Junction—the gas that is delivered through that line goes in a southeasterly direction; does any of it ever come back northwest?

A. I would not be able to answer definitely on that.

Commissioner Thompson: Since none of that is charged to Laredo, is that important?

Q. I think it may be relevant, and I wanted it in the record, if he knows.

Commissioner Thompson: It is clear none of it is charged to Laredo, none of it except those in red.

Q. None of it except those in red; yes, that is correct.

• • • • • • •

[fols. 224-301] Q. Now, the item of going concern value appearing on sheet 1 in column 4, $155,082; in what manner did you arrive at that percentage?

A. That is 12 and one-half per cent.

Q. Of what item?

A. That is 12 and one-half per cent of the total, including general construction expenditures.

Q. Name the figure.

A. On page 1 of Exhibit 1 it is $155,082.

Q. That was computed against what figure?

A. $1,240,655.

. . . . . .

[fol. 302] Whereupon the witness P. McDonald Biddison was recalled to the stand, and testified as follows:

Cross-examination.

By Mr. Bobbitt:

Q. How long have you lived there?

A. Since 1923.

Q. At this time are you connected with the United Gas System?

A. I am not except for my connection in this particular case, being retained in this instance by the United Gas System.

Q. You are retained to testify in this case?

A. In this particular case, yes.

Q. By the United Gas System?

[fol. 303] A. Yes.

Q. Are you employed regularly by any utility concern?

A. At the present time I have a retainer from the Lone Star Gas Corporation; that is the only retainer I have at this time.

Q. Otherwise, you are just in the general engineering practice?

A. That is correct, and I am free to take on employment wherever the opportunity is offered.

Q. But you have no regular employment with any concern other than the retainer by the Lone Star Gas?

A. That is correct.

Q. You have testified as an expert, as you have testified here now, in quite a number of rate cases, have you not, Mr. Biddison?

A. Several, but not a large number, no.

Q. You testified in the Lone Star in the Fort Worth case?

A. I did.

Q. On behalf of the Lone Star Gas Company?

A. On behalf of the Fort Worth Gas Company.

Q. That is a subsidiary of the Lone Star?

A. It was at that time.

Q. It is all one outfit?

A. It was at that time a subsidiary of Lone Star Gas.

Q. What other companies of that nature have you testi- [fols. 304-357] fied for in the past 2 or 3 years?

A. That was the first rate case in which I testified. I have since testified in, I believe, two rate cases in Alabama; I testified before the Texas Commission in the Childress rate case, and before the Texas Commission in the Royce City Texas case, and before the Kansas Commission in the Cities Service case, and I believe that is the complete list.

Q. In all of these case-, I understand—is it true or is it not true, you have appeared and testified on behalf of the utility?

A. That is correct.

Q. You have never been employed and testified on behalf of municipalities or a concern that was operated or being considered from the standpoint of the public?

A. I have never been employed in any such matter by any municipal or governmental organization.

Q. And over this long list of experience and qualifications you testified about, those employments have been by utility concerns, and you have been working for utility concerns?

A. No, not always utilities; by gas and oil companies.

* * * * * * *

[fol. 358] Mr. Coates: Dealing now with the net rate of return?

A. Yes.

Q. You then would not consider the important element of economy of operation as interesting the investor?

A. Yes, that should be given consideration.

Q. Equal weight with the others?

A. It must be given its full weight and value, yes.

Q. You would not consider the element of low rates as interesting the investors?

A. Yes, the rates would interest the investor, certainly.

Q. I mean low rates, and not just rates.

[fol. 359] A. Yes, they would be given consideration.

Q. And given equal consideration?

A. It would be given full consideration.

Q. And isn't it a fact that lower rates automatically increase consumption immediately?

A. They sometimes do.

Q. It depends on the fact in connection with any particular situation?

A. Yes, but I would not say that was a general rule; it may or may not do so.

Q. And you, of course, realize, and take into consideration the present financial depression that is prevalent in the country?

A. Regardless of that, if people have use for only a given amount of a commodity they are not going to buy more of it simply because the price is reduced.

Q. Taking into consideration the effect of the present economic and financial depression, isn't it fair, both to the distributor and the transmitter of the gas, as well as the user, that both equally share in the situation resulting from such depression?

A. That the distributor and the transmitter share equally in it?

Q. Share equally with the user in bearing the burden of that depression.

Mr. Coates: Just a moment here. I do not know that [fol. 360] I understand Mr. Lange's question, but I think it is directed as to whether or not a utility should forego all or a part of a fair return in a period of depression. This case has been set up on what a utility should earn on its present fair value, and that is all that it is asking for. Of course it is common knowledge that during times of depression users have their troubles, and utilities have their troubles, and I hardly think it is material, or will serve any useful purpose to ask this witness whether or not he thinks the operating officials in responsible charge of the operation of this company, should forego any part of

a fair return as a charitable proposition, and we object to it as not material.

Mr. Lange: We are not urging it as a charitable proposition, but we are simply urging it as a consideration that Commissions have and courts have taken into consideration in viewing the factor of a fair return or fair rate of return, and what would constitute a fair rate of return under the existing circumstances, and as a circumstance, we think it has a place in the record in this case.

Commissioner Thompson: You mean the depression?

Mr. Lange: Yes sir, and I am not trying to mislead the Commission in any way in that respect, but we can, at the proper time, produce ample authorities on that, that as a circumstance it has the proper place in this record, and for that reason I think the witness should testify and give his [fol. 361] opinion on it.

Mr. Coates: In the only case I know of where a Commission has attempted to reduce a utility below a fair return over and above the cost of the service, the order has been promptly enjoined, and is now enjoined.

Mr. Lange: I think the Supreme Court of the United States has expressed itself on that very question, and that that question has the proper place in the record, and should be considered by the rate making body, and we will give the Commission ample authority on that.

Commissioner Thompson: We sometimes make distress rates, or distress conditions, like freight rates, but in making rates for a utility it must take into consideration a long range of time, and not a distress period.

Mr. Lange: Yes, and the rate making body must take into consideration what the service is worth to the user, and what he is able to pay for it, and it has weight in arriving at the question of what the fair rate should be in effecting that rate base.

Commissioner Thompson: That is very interesting to me.

Mr. Lange: We can show the Commission authorities on that.

Commissioner Thompson: You mean the ability to pay?

Mr. Lange: Yes, and we think it has a proper place in [fol. 362] the record for what consideration the Commission may wish to give it. It has a bearing on the rate you finally fix, and we can support that by authority.

Mr. Stanberry: Your contention is that what might be a fair rate today might not be a fair rate under a different state of conditions.

Mr. Lange: Yes, and we think it is a circumstance that the Commission should have before it, and take into consideration, and whatever weight is given it would depend on the circumstance as reflected by the entire record, but it has a place in the record that the Commission should have before it when it arrives at its final decision. We can support that by authority and we think it has a place in the record, and honestly believe it is supported by authority, and if the Commission later thinks it ought to come out we will be glad to have it stri-ken out if we do not support it by authority.

Mr. Coates: Conceding that would be true, without admitting the gentleman's position, we then say that there is a proper method of proof as to the item he suggests, and that the proper method of proof is not propounding to an engineering witness a question of law such has has been propounded here.

Commissioner Thompson: The Commission will rule that we cannot, in this case, consider depressed conditions. The case has been presented on present replacement values, [fol. 363] and that in itself takes into consideration fully the present price of the commodities that go into this system.

Mr. Lange: That is true.

Commissioner Thompson: And so we are considering today's prices, and present replacement values, and I think that is as far as we would care to go.

Mr. Lange: That is in connection with the physical values, and I am speaking now in connection with the fair rate of return as to what the rate payer is able to pay; we can support that by authority, as I say, and believe the Commission should take it into consideration in arriving at the fair rate of return. Not as to the physical value of the property, but when you get to the point of analyzing the entire record, and reaching a fair rate of return.

Commissioner Thompson: I know of no way except to take the value of the property, and find out what is a fair return on that, and the law has limited us to 10 per cent; we cannot go beyond that. We can find something reason-

able, perhaps, not so high, but that is the rule, and if the commodity is too high, the business will have to go without customers.

Mr. Bobbitt: If the Commission please, it seems to us there can be no injury done unless it is through an exclusion of this testimony. If we are wrong in our view of the matter, the Commission may disregard the testimony, but [fol. 364] if we are right, and the Commission has refused to receive the testimony, then we are denied our right——

Commissioner Thompson: As to the question of considering it, we will have to reserve decision, but as to the question of denying you that right to put it in, we will not do that.

Mr. Coates: We most respectfully insist upon our legal objection as to the legal admissibility of the question.

Commissioner Thompson: We will note the objection.

Mr. Coates: May it be understood without the necessity of repeating our objection, that it goes to the entire line of testimony?

Commissioner Thompson: That will be so understood.

Mr. Lange: Will you read the question to the witness?

"Q. Taking into the consideration the fact of the present economical and financial depression, isn't it fair, both to the distributor and the transmitter of the gas, as well as the user, that both equally share in the situation resulting from such depression."

Commissioner Thompson: You are asking that question as a good business policy, or as an expert opinion?

[fol. 365] Mr. Lange: We are asking for his expert opinion.

Mr. Coates: He is qualified as an expert engineer, and as an expert engineering witness, and likewise as an operator, and an engineer and builder of properties, but not as a professor of economics or as to economic theories, or anything of that sort.

Mr. Lange: He has given us a long dissertation on the elements of securing capital, and the elements that go into that.

Mr. Coates: Yes, in direct connection with his experience in the business, but not on the general economic theory.

Mr. Bobbitt: I didn't know he left that out.

Commissioner Thompson: Go ahead.

A. I do not think it is equitable to require a utility to accept less than a fair rate of return on the value of its property and business, because its customers may be bearing the burden of a depression, for the reason that the utility will not later be allowed to earn more than a fair rate of return, and recoup the deficiency.

By Mr. Lange:

Q. Whenever that point is reached, that they are finding that they are not making a fair rate of return, if the situation is different the rate making body is at their disposition, isn't it?

A. The rate making body may, at a later date, set a fair [fol. 366] rate of return, but the rate making body has no authority, as I understand it, to ever grant them what would be more than a fair rate of return, and therefore, during any period when their rate of return is less than a fair rate of return, they have suffered a lack of return which they can never recoup.

Q. What is your opinion with reference to the rate that should be exacted from the rate payer in comparison with the service rendered, and the work of the service rendered?

Mr. Coates: Just a moment. We object to the term "exacted" because nobody compels anybody to take gas.

Q. I am using the expression that the courts use.

Commissioner Thompson: You mean charged?

Q. I would use the term charged, but I was following the court.

Commissioner Thompson: Let's be gentle and say charge, because it amounts to the same thing.

Q. I want the same term in the record that the courts use.

Mr. Coates: The utility is compelled to furnish the service, but no user is compelled to take the service.

Commissioner Thompson: The utilities have exacted from them the burden of rendering service.

Q. If that expression is too harsh, I just wanted to track the court in that. Will you read that question?

[fols. 367-371] (Reporter reads question.)

Q. I will put it, at what the service rendered is reasonably worth.

A. It should be no more than the service is reasonably worth.

• • • • • • •

[fol. 372] Questions by Mr. Stanberry:

Q. I believe you testified, Mr. Biddison, that you had examined this Exhibit No. 1?

A. Yes.

Q. And that you think it is reasonably correct, and if anything, low?

[fol. 373] A. Yes.

Q. Now then, on this question of going concern value, I believe you testified, didn't you, that that represents an actual outlay of cash, and an expenditure of money for the purpose of attaching the business?

A. Normally an organization would have to put out money to develop a business, and if this plant were rebuilt and reconstructed here today, new expenditures would have to be made to attach that business.

Q. All right, who is the South Texas Gas Company's customer?

A. My understanding of the set-up is that the customer of the South Texas Gas Company is the distribution plant in this immediate vicinity here, the Texas Border Gas Company. I believe those are the corporate names.

Mr. Coates: That is one customer. There are a number of customers.

Q. That is one customer. All right, who is the customer of the gathering system?

A. The gathering system delivers into the transmission system, and under those conditions the transmission system might be considered as being the customer of the gathering system.

Q. Now, just enumerate briefly again the expense that is incident to the attaching of business such as advertising and soliciting and your demonstrators.

[fol. 374] A. That is expense of developing your organization, and training your employees.

Q. Do you pay an inexperienced employee as much as you do an experienced employee?

A. Not ordinarily, no.

Q. Those boys pay a good part of their own tuition themselves, don't they?

A. They undoubtedly pay some of it.

Q. Now then, how much money would it take or be necessary to expend by the Texas Border Gas Company to get the Texas Border Gas Company to make this contract to take the gas from the South Texas Gas Company?

A. I don't know.

Q. What was the expense of attaching that business?

A. I do not know.

Q. The expense of attaching the business was in town?

A. That is where the bulk of it would be, I believe.

Q. On South Texas Gas Company you have a going concern value of $155,082.00, or $155,000.00 in round numbers on page 1 of Exhibit 1.

Mr. Coates: That is the combined total of the three properties, Mr. Stanberry.

Q. I was mistaken about that. The total is $155,000.00, and the transmission system is $70,659.00, going concern value. Now, what is represented in that item—where is [fol. 375] the expense that was incident to attaching that business?

A. I do not know anything about the historical expense of attaching that business.

Q. Doesn't your going concern value on any property usually run around 12 to 12 and one-half per cent, regardless of the conditions under which the business was attached; it usually runs about 12 and one-half per cent, doesn't it, in any estimate you make?

A. I think there is some appreciable variation in that figure.

Q. Well, we have the cost of attaching business here in town, in this going concern value, and then we have the cost of attaching business out at the city gate to the pipe line company, and then we have the cost of attaching the business out in the field where the gathering system comes into the main line, and you have three elements of attaching the business, where all of the cost of attaching the business is here in town. Now, how do you explain that the cost of attaching business on a transmission line, or the going concern value, is as high as it is in the city?

A. We have in this set-up shown in Exhibit No. 1, by Mr. Greene, a ulified system of gathering system property, transmission property and distribution property, with the business attached to all of them, and the going concern value

inheres in the entire property, as well as the individual [fols. 376-580] units of the property.

* * * * * * *

[fols. 581-592] Testimony of J. V. STRANGE

* * * * * * *

Q. What was the purpose of the company in making the application for the changed rate?

A. We made that application after a study, a thorough study of the situation, which indicates to us that we are entitled to an increase in rates.

* * * * * * *

[fol. 593] Q. It is just like this item of going value generally, isn't it; it is just a pure guess, isn't it, Mr. Strange?

A. As to what going value would be?

Q. As to the percentage you would make for the cost of attaching business, what that would be; you have no idea of what that would be?

A. I would not care to attempt to express it in terms of percentage.

Q. It is a pure estimate, isn't it?

A. But I do know from actual experience that it is a very real thing.

Q. And a substantial part of the going value?

A. It is a considerable part.

Q. Now, in that connection you would not have much expense in attaching business, for instance, of the South Texas Gas Company, would you?

A. South Texas Gas Company in this hearing is considered as a part of one system.

Q. I appreciate that and understand it thoroughly, but for the purpose of trying to arrive at some idea of the going value, let's talk about the South Texas Gas Company a little bit. There is not much expense connected with the attaching of that business, is there?

A. The South Texas Gas Company in this hearing is the transmission system that leads to the distribution system.

[fol. 594] Q. I understand that thoroughly.

A. It is a part of a whole that is presented in this case.

Q. I understand that.

A. But I think your question is a bit misleading if I may say so, Mr. Bobbitt, because it is like taking a pipe line that leads down to the area where the business is located, and taking out a part of the whole.

Q. Well, just to clarify the matter, we do not want to be technical about it. Let's just consider here that you are asking, as I understand, about $50,000 or $60,000 independent element or factor of going value for the South Texas Gas Company; is that correct?

A. I do not remember what the figure is.

Q. Well, it is $50,000 or $60,000, that is the allowance you want here, and you want the rate payers to pay on that, and a substantial part of that $60,000 in value is incurred, or the expense of it is incurred by your concern in attaching business for the South Texas Gas Company. Now, just what has your actual expense, or out-of-pocket money been in attaching the South Texas Gas Company's business?

A. I would say that most of the outlay for developing the business would be on the part of the customers, the distribution systems which are supplied from the South [fol. 595] Texas Gas Company lines rather than on the South Texas line itself, but the South Texas, in this situation, simply being a part of the whole, it is my judgment that the over-all allowance for going concern value in connection with this total property presented here is reasonable, and that——

Q. I did not ask you that.

A. And that it would have been incurred in developing the business.

Q. That is very interesting, Mr. Strange; that is very interesting, but I would like to have the question answered if it is an intelligent question, along the lines I asked it.

Mr. Coates: I believe the witness has answered it.

Q. I do not think he did, Mr. Coates. To be specific about the matter, now you asked $73,000 in this set-up going value for the South Texas Gas Company?

A. Yes.

Q. That is what the record shows. Now, a very substantial part of the expense that you set up here, or contend

for, on that $73,000 item, is your out-of-pocket money, as I understood you to say, or your cost of attaching that business. Now, what did it cost you to attach the South Texas Gas Company business?

A. I have not said, or I do not say that a very substan-
[fol. 596] tial amount of the going value runs with reference to the South Texas Gas Company along that line or would be for attaching business directly to that line. On the other hand I will say that the going value asked for of the South Texas can be justified entirely on this theory, namely, that had the main transmission line of South Texas originally been built only sufficient to supply the service that was available here in Laredo at, we will say, the end of the first year of its development, and then as the property developed steps had to be taken to enlarge that transmission system, the net result of that to the rate payers would have been a much greater outlay than is represented in the reproduction cost as presented here with the full allowance for going value.

Q. That is your opinion and judgment about the matter, and very interesting, but would you be good enough to tell us if you have any idea of the cost or expense to the South Texas Gas Company of attaching its business, a substantial element in this going value item you set up here.

A. I cannot give you any estimate.

Q. Now, as a matter of fact, you know it did not cost you anything to speak of?

A. No, I do not know that, on the contrary I know that it cost money.

[fol. 597] Q. To attach the South Texas Gas Company's business; how much money?

A. I cannot tell you.

Q. You haven't any idea, have you?

A. I would not attempt to estimate that.

Q. You would not attempt to estimate it? You do not know whether it is one dollar or $25,000?

A. I would not attempt to estimate it.

Q. But you do estimate and put in this set up here $73,000 going concern value, a substantial portion of which is made up of the cost of attaching South Texas Gas Company's business?

A. A part of which is made up of the cost of attaching business to the consolidated system.

Q. Now, the cost of attaching the business, Mr. Strange, under the theory you are talking about of the Texas Border Gas Company, is substantially greater than that of the South Texas Gas Company?

A. I presume it would be.

Q. You are an experienced man, and have operated these properties, and various others, don't you know that is a fact?

A. Yes, I believe that is true.

Q. How much greater?

A. I would not attempt to say.

[fols. 598-602] Q. Can you give us any estimate of it?

A. I would not make any estimate.

Q. It is substantially greater, isn't it?

A. It would be somewhat greater.

Q. Then why do you ask for a larger allowance for going concern value for the South Texas Gas Company, or percentage, than you do for the Texas Border Gas Company?

A. I think we have asked for the same allowance in percentage.

Q. You asked 6 per cent on the South Texas Gas Company, and 5 per cent on the Texas Border Gas Company.

Mr. Stanberry: That was the depreciation, wasn't it?

Q. I am in error about that. I believe the record shows, Mr. Strange, that you asked for an allowance of about $80,000 going value for the Texas Border Gas Company, and $73,000 for the South Texas Gas Company. Practically all of the expense of attaching business that you have been talking about is incurred by the Texas Border Gas Company, isn't it?

A. I think most of it would be incurred by the Texas Border Gas Company.

Q. And the item of attaching business is a very substantial item in that factor?

A. It is part of it.

* * * * * * *

[fol. 603] Q. Mr. Strange, in connection with the application you filed, that you just testified about awhile ago, for an increase in rates to $1.50 minimum, the city replied to that request, that application or request made by your concern, didn't it?

[fol. 604] A. I do not recall that, Mr. Bobbitt.

Q. I will ask you, Mr. Strange, if you have seen the original letter of which this is a copy; it is addressed to the district manager of course?

A. I believe I have seen that letter.

Q. And you have considered that letter, have you not?

A. I think that letter was replied to, wasn't it?

Q. It may have been, yes. I will state to counsel this is a carbon copy of the letter, and I want to offer this letter in evidence, if the Commission please, which is addressed to the Texas Border Gas Company, Laredo, Texas, July 6, 1932, attention of Mr. W. W. Steinn, District Manager, and this letter says "Gentlemen: Receipt on June 29th, of petition of the Texas Border Gas Company dated June 27, 1932, addressed to the Mayor and City Council of the City of Laredo, is respectfully acknowledged. In order that the city of Laredo may be enabled to give the above mentioned petition proper consideration, as contemplated by our statutes, it will be necessary that the governing body of the city be furnished with the facts and figures upon which the Texas Border Gas Company's application for an increase in domestic rates is based. Upon presentation of such data to us by the Gas Company, we shall give the matter our careful consideration and then advise you as to our decision in connection therewith. Very truly yours, Albert Martin, Mayor, City of Laredo."

[fol. 605] Mr. Coates: In order to get the record straight and connect the record up on that have you a copy of the reply made to that letter?

Mr. Bobbitt: I think so.

Mr. Coates: Do you mind introducing it at the same time?

Mr. Bobbitt: There are some portions of that letter that we do not want to be bound by.

Mr. Coates: If it is not interrupting you, but in order to make the record consecutive, may we offer the copy of the letter so you will not be bound by it at this time?

Mr. Bobbitt: You can do that, or on cross examination as you desire. Now, you considered that request or suggestion made by the city that you present facts and figures in order that they might give consideration to your request?

A. I believe we did.

Mr. Bobbitt: And your company declined to submit any facts or figures in response to that request; isn't that true?

Mr. Coates: Doesn't our reply show just what we did much better than the recollection of this witness, and we have offered to put it in evidence as to what we did do, and what we did reply without your being bound by it in [fol. 606] any way, and I believe it is the best evidence, since it is an exchange of correspondence, rather than this witness' recollection.

Mr. Bobbitt: I am simply asking as to whether or not the company refused to comply with the request made by the city.

Mr. Coates: And we are making the objection that the letter is the best evidence of what the company did.

Mr. Stanberry: Of course I do not know what is in the letter.

Mr. Coates: I think you got a copy of it, Mr. Stanberry.

Mr. Stanberry: It is probably in the record or in the file, but I do not remember it. It might be that they did not put it in the letter at all, that they would refuse to furnish information, but still did refuse to furnish it.

Mr. Bobbitt: I am only asking for the facts, as to what took place, and it would not help the record to clutter it up as to reasons. I am only asking what they did.

Mr. Coates: The letter does state what we did, and is the best evidence of what we did; we offer in evidence the copy of the letter if Mr. Bobbitt will furnish us that copy, as to [fol. 607] what the reply was.

A. If I may have the letter I will be glad to read it in reply to your question, Mr. Bobbitt.

Mr. Bobbitt: I am asking you, Mr. Strange.

Mr. Stanberry: Just note the objection and go ahead and answer the question.

Mr. Coates: We want to object to this and all other questioning along that line as not being the best evidence, and ask that our exception be noted to each and all of these questions and answers without the necessity of making the objection to each of them.

Mr. Bobbitt: Do you wish to put the letter in?

Mr. Coates: Yes.

Mr. Bobbitt: And without binding the city?

Mr. Coates: Yes, we will offer it as Exhibit No. 7, without binding the city of Laredo by it, and I noted that this came from the city of Laredo, and you may not have gotten a copy of it, Mr. Stanberry.

Mr. Stanberry: We will receive the letter from the city to the Texas Border Gas Company as Exhibit No. 6 and the letter from the gas company to the city of Laredo as Exhibit No. 7. Proceed with the witness.

By Mr. Bobbitt:

Q. As I say, Mr. Strange, you declined to give the city any information or any facts and figures in line with its request made to you to submit facts and figures upon which it might [fol. 608] give consideration to your request or petition for an increase in rate.

Mr. Coates: Before answering the question refresh your memory from that letter as to what we did.

A. It is my recollection that we did give facts and figures to the city in response to its request.

Q. Isn't it true that you made the statement you did not think it would serve any useful purpose to give any facts and figures at that time?

A. Reading from the letter, this paragraph will, I believe, answer you.

Mr. Coates: You might read the whole letter, Mr. Strange, to connect it up.

A. All right, I will read this letter. "United Gas System, Laredo, Texas, July 12, 1932. To the Honorable Mayor and City Council of the City of Laredo, Laredo, Texas. Gentlemen: This will acknowledge receipt of Mayor Martin's letter of the sixth instant. Your Honorable Body now has before it three gas rate schedules, namely, a schedule of reduced rates contained in the rate reduction ordinance from which an appeal to the Railroad Commission has been taken, the existing gas rates in Laredo, and the rate schedule proposed by the company in its recent application. Since this entire matter is now before the Commission, we believe [fol. 609] that the Commission should fix fair and reasonable rates for Laredo in keeping with the testimony which is presented when the matter is heard, without regard to whether the rates so fixed are greater or less than those which have previously existed. The possible construction of the statute which requires the filing of an application for increased rates with a city which has already enacted a rate reduction ordinance, necessarily places the governing body of that city in the position of defending a schedule of

reduced rates before the Commission at Austin, and at the same time sitting in judgment upon an application for increased rates at home. We enclose a statement showing operating expenses of South Texas Gas Company and Texas Border Gas Company incurred solely in gathering, transmitting and distributing gas to the city of Laredo and the gross revenues from gas sales to Laredo consumers, such operating statement covering the twelve (12) months' period ended March 31, 1932. While we neither agree with nor accept Mr. Neff's figures, we call your attention to the fact that Mr. Neff has already fixed the value of the properties of South Texas Gas Company and Texas Border Gas Company solely used and employed to serve Laredo consumers at $718,072.26, and has found that $35,752.51 per year is a proper reserve for depreciation. We assume that you will wish to have this operating statement checked by your city [fol. 610] representatives and the books of the company will be open to you for this purpose. The checking of this operating statement will permit you, on figures wholly found by city representatives, to determine whether existing rates are more or less than adequate.

"Until you have determined the inadequacy of the existing rates, as the figures which you have at hand, and which we are now furnishing you enable you to do, we think that you will agree with us that no useful purpose can be served by presenting facts and figures to show how much existing rates should be increased in order to yield a reasonable return.

"We will be glad to know the conclusion you reach with respect to the adequacy of existing rates at Laredo and will be prepared to act promptly in accordance therewith.

"Very respectfully yours, Texas Border Gas Company, by signed). W. W. Stein, District Mgr."

Q. That application was made and those letters written following the filing of that application, and you had already appealed from the action of the city of Laredo?

A. I believe we had.

Q. And that matter was then pending on the appeal which you had perfected?

A. Yes, I believe so.

[fol. 611] Q. And the duty of the Commission was to fix fair rates on that appeal?

A. Yes.

Q. Why did you file that application at that particular time within the city of Laredo, when the entire matter was pending before the Commission?

A. I think our purpose in filing the petition for an increase of rates was so this hearing might determine whether the rate adopted by the city in its ordinance or the rate we had petitioned for, which of those two rates was the fair and equitable rate.

Q. And that is the sole and only reason you filed the application at that time?

A. Yes.

Q. You did file the application and request for increased rates, and the city official courteously asked you for facts and figures upon which to consider your petition, and you refused to give them those figures?

A. I do not believe the letter is quite capable of that construction.

Q. You did not give them any facts and figures?

A. Yes, we gave them operating revenues and expenses.

Q. You gave them a little slip of paper with some figures on the back of it, and they could not base any intelligent rate on it, so far as rate making purposes was concerned? [fols. 612-1013] A. They would perhaps need more information, but I believe we indicated a willingness to give them all the information they wanted.

Q. You could have given them full information in compliance with our request?

A. I think the letter rather courteously states why we did not give more information.

Q. You could have given the information they requested?

A. Yes, we could.

Q. And you did not, that is what I am interested in, in getting the record straight. That is all for the present.

* * * * * * *

[fols. 1014-1016] [File endorsements omitted]

* * * * * * *

[fols. 1017-1018] BEFORE THE RAILROAD COMMISSION OF TEXAS, GAS UTILITIES DIVISION

Hearing Held in the City of Laredo, Texas, November 14, 1932, 10:00 o'clock A. M.

Before Honorable E. O. Thompson, Commissioner

Gas Utilities Dockets Nos. 49 & 63

In the Matter of the Appeal of THE TEXAS BORDER GAS COMPANY AND THE SOUTH TEXAS GAS COMPANY from an Order of the City of Laredo Fixing Rates and Charges for Natural Gas and Natural Gas Service

* * * * * * *

[fol. 1019] Whereupon the witness HENRY E. ELROD, being by the Commission first duly sworn, testified as follows:

Direct examination.

By Mr. Lange:

Q. Please state your name, age and place of residence.
A. Henry E. Elrod, 54 years old.
Q. You reside where?
A. I reside in Houston, Texas.
Q. Mr. Elrod, what is your occupation at this time?
A. I am a consulting engineer.
Q. For the purpose of this record will you please briefly [fol. 1020] give the pertinent details in connection with your vocation, your work that you have done in connection with your engineering work, and the degrees, if any, that you hold.
A. To start back with my early experience, in 1892 to 1898 I worked successively as roustabout foreman, dynamo tender, lineman and foreman for Electric Light and Water Plants at Columbus, Texas. 1898 to 1901 while I was attending the Agricultural & Mechanical College of Texas I was night operator of the Electric Light Water & Ice Plant. I graduated in 1901 with the degree of Bachelor of Science and Mechanical Engineer. In 1901 to 1903 I was structural engineer for Mosher Manufacturing Company of Dallas. 1903 to 1906 I was successively structural engineer and gen-

eral manager of Bartlett Steel Company of Joplin, Missouri. These two companies specialized in the manufacture of structural iron works for buildings and bridges, and the fabrication of structural steel for the same purposes, and the design and construction of general iron and machinery works.

1906 to 1910 I designed and supervised the construction of and operated as general manager the plant of the Houston Structural Steel Company. That concern also was a manufacturer of structural iron works, and a fabricator of structural steel works for buildings and bridges and all kind of work requiring the fabricated iron and steel.

1910 to 1912 I was general manager of the Union Iron [fol. 1021] Works of Houston. They were manufacturers of oil well supplies and equipment, drilling rigs, drilling tools and all kinds of iron works that went with oil and gas development and the supplies which they handled in connection therewith.

From 1912 up to date I have been in the practice of my profession as a consulting engineer. During that time I have constructed, designed and supervised the construction of 30 water works systems; 13 dams for water supplies; 11 reservoirs for impounding water; 13 water filtration plants; 9 deep wells; 10 water supply reports; 25 sewer systems; 47 sewage treatment plants; 34 municipal paving programs; 4 county highway systems; the appraisal of 34 public utilities; 17 geologic reports; 84 technical reports of various characters, totalling 324 engineering Commissions.

Now, of the details of the work on the water works systems for various towns in Texas and California, for the sewer systems, I roughly estimate that I have supervised the construction, not all personally, of course, but generally under my supervision, of approximately 3 million lineal feet of trenching and backfilling, or over 500 miles.

The dams that I have built consist of earth works, concrete works, masonry, steel and so forth. The public utility appraisals, at Alba, Texas, the water works system for purchase. At Amarillo, Texas, the Water, Light & Power Com- [fol. 1022] pany for rate purposes; that was a Federal Court case, that is, the case found its way into the Federal Court, and I testified in that case. The appraisal of the Brunner Texas Water Works System for purchase. At Coleman, Texas, the sewer system for purchase. At Galveston, Texas,

the Galveston Electric and Street Railway properties for rate purposes.

Q. Was that a Federal rate case?

A. Yes, and it finally went to the Supreme Court.

Q. Of the United States?

A. Yes, of the United States. The Brush Electric Company for light and power rate purposes.

Q. Was that a case which also went to the Supreme Court of the United States?

A. Yes. The Galveston Gas Company, which was an artificial gas company, for rate purposes. The Galveston Wharf Company for taxation purposes. The Gorman Water Works System for purchase. Honey Grove Water Works System for purchase. The Houston Gas & Fuel Company for rate purposes. The Southwestern Telephone and Telegraph Company, two of them, for rate purposes, and one of those went to the Supreme Court. The Home Telephone Company, automatic, at Houston, for rate purposes. The Houston Lighting & Power Company for rate purposes. The Houston Electric Company and Street Railway for rate purposes. The Hubbard Texas Water Works System for [fol. 1023] purchase. At Jacksonville, Florida, investigation of properties and operation of the Jacksonville Municipal Electric Light & Power Company for the City of Houston for purposes of comparison. At Lockhart, Texas, the water works system for purchase. At Longview, Texas, the Longview Light & Ice Company for rate purposes. At Malone, Texas, the water works system for purchase. Merkel, Texas, the Electric Light & Power Company for rate purposes. At Paducah, Texas, Electric Company for rate purposes. At Port Arthur, Texas, the gas works for purchase. At Ranger, Texas, the Ranger Water Company for purchase. At San Angelo, Texas, the Electric Light & Water Works property for purchase. At San Marcos, Texas, the San Marcos Utility Company for rate purposes, that was a water plant. At Taylor, Texas, the sewer system for purchase. At Temple, Texas, the Temple Gas Light Company for rate purposes. At Tyler, Texas, the sewer system for purchase and the water works system for purchase. At Wichita Falls, Texas, the Wichita Falls Gas Company, I believe that is a municipal gas company.

Q. That case was heard before the Railroad Commission of Texas?

A. Yes, in 1923.

Q. And you testified in that case as an engineer?

A. Yes, for the City. At Dallas, Texas, the Dallas Telephone Company for rate purposes. As nearly as I can esti- [fol. 1024] mate offhand from memory, the total values involved approximate $100,000,000 of property appraised.

Q. Mr. Elrod, in your work as an engineer, has that work been on behalf of municipalities or cities in either rate, purchase or other matters?

A. It has.

Q. In connection with the appraisals that you have made, and experience you have had in making those, what has been your—has there been any particular difficulty that you have encountered because of the fact that the appraisal was being made in behalf of the municipalities as distinguished from that which were made by the utilities?

A. Well, I believe it is patent that a consulting engineer is not a purchaser of materials or supplies, and he has to get his prices in the form of quotations from material supply companies, and he becomes familiar with prices through the unit prices used by the contractors that bid on the work, but in a rate case he must depend entirely upon getting quotations from manufacturers and material supply people. Since, as I have said, a consulting engineer is not a purchaser of these materials, and the utilities are purchasers of such materials, the material supply people and manufacturers generally are rather cagey about giving a consulting engineer the prices that they would give to the purchasers to be used against their customers in rate hearings. [fol. 1025] I know that we have been unable to get preferential discounts as to various items, and I know from experience in connection with my work that such preferential discounts are given. For instance, I asked for a quotation on pipe F. O. B. Laredo, and I was given a quotation on pipe at its market price, the price which would be quoted to anybody who asked for a price. I was not told by the company quoting that if I had included a keg of nails in each car of pipe that I could have gotten a lower rate on freight as a technical mixed car instead of a straight car. I know that that is done, and as I say, I know that preferential discounts are given, and so it is obvious that a consulting engineer cannot get the very lowest quotations, and the quotations that a company actually buying materials in large quantities can and does get.

Q. That is a consulting engineer asking for those quotations on behalf of a municipality who is not a purchaser?

A. Yes.

Q. Mr. Elrod, were you engaged by the City of Laredo to prepare an inventory and appraisal of the properties of the Texas Border Gas Company and South Texas Gas Company used and useful in serving the rate payers of the City of Laredo?

A. Yes.

Q. I will ask you whether or not you have prepared, to-
[fols. 1026-1027] gether with Mr. J. D. Shaw, an inventory and appraisal of the properties of South Texas Gas Company and Texas Border Gas Company used and useful in serving the City of Laredo?

A. I have.

* * * * * * *

[fol. 1028] Mr. Lange: Will the reporter please identify
[fol. 1029] this exhibit.

Commissioner Thompson: It will be received as Exhibit "A".

By Mr. Lange:

Q. Mr. Elrod, you have before you a copy of Exhibit "A", styled Inventory and Appraisal of the properties of South Texas Gas Company and Texas Border Gas Company.

A. I have.

Q. If you will turn to Page 1 at the bottom of the page, Texas Border Gas Company and South Texas Gas Company, July 31, 1932, allocation as to net appraisal after deducting from said appraisal the sum of $65,257 being disallowed for lines to Mirando City and Oilton and gathering system in the Jennings Field and Jim Hogg Junction with concomitant structures. Total appraised value, $565,055. You have allocated to Laredo the sum of $544,921?

A. Yes.

Q. That represents a percentage of 96.45?

A. Yes.

Q. South Texas Gas Company's properties, total appraised value, $629,982, allocated to Laredo, $449,114, and that represents a per cent of 71.29 per cent?

A. Yes.

Q. Now, will you explain how you arrived at the total figures at the bottom.

[fol. 1030] A. The figure of $629,982 is the amount of the company's appraisal for the South Texas Gas Company's properties less the $65,257. The amount of $449,114 is the amount of the figure just read allocated on the basis of 71.29 per cent, which is the per cent of allocation used by the company. The total appraised value of the two properties is then $1,194,987.

Q. That is the company's appraisal?

A. The company's appraisal and the amount allocated to Laredo is $994,035.

Q. As per the company's appraisal?

A. Yes, less, of course, the $65,257 which was omitted.

Q. How did you arrive at that per cent of 83.18?

A. The ratio of the allocated property to the total appraised property is 83.18 per cent, which is the per cent which we have used in allocating the properties to inside of the City of Laredo.

Mr. Coates: Mr. Lange, I do not like to interrupt any more than I could help, but I did not understand Mr. Elrod, whether the figure $65,257, being the lines to Mirando City and Oilton, and the gathering systems at Jennings Field to Jim Hogg Junction was the appraised value given to those properties by the company.

A. Yes.

Mr. Coates: And has been deducted from the remaining [fol. 1031] value of the appraised property as appraised by you?

A. No, the figure $449,114 is 71.29 per cent of the figure $629,982.

Mr. Coates: Well, have you deducted the figure of $65,257 from any other figure—have you made that subtraction?

A. I do not quite get your question.

Mr. Coates: Have you gone through the mathematical calculation of deducting the figure of $65,257 from any appraised value figures appraised by you?

A. No sir.

Mr. Coates: You have not?

A. No.

Mr. Coates: I still do not understand it, but I guess I can bring that out on cross examination.

A. Maybe I can explain it a little clearer. We took the company's appraisal which shows the total appraised value of the Texas Border Gas Company's properties at $565,055. Now, that figure 5 in there is a stenographic error which I have just noticed. It should be $565,005.

Q. Now, is that all the properties of the Texas Border Gas Company?

A. That is just those properties included in the company's appraisal, and if you will turn to Page 2, I believe, of your appraisal, you will see that figure as representing [fols. 1032-1049] the total unallocated properties of Texas Border Gas Company and the figure of $544,921 will represent that portion of the company's properties which the company allocated to Laredo.

* * * * * * *

[fol. 1050] Commissioner Thompson: How do you arrive in your prices, or arrive at this 88 per cent? Just what do you do?

[fols. 1051-1117] A. We try to ascertain the age, the length of time the property has been installed, and that in connection with the condition, we use our best judgment at putting a per cent condition on it. Now this particular station or meter house has probably been in for 12 years.

Commissioner Thompson: You just look it over and see how long it has been there, and if it has been there a long time, and been kept up in good shape, would the per cent condition be more or less than if it had not been kept up so well?

A. The per cent condition of course would be more if it has been well maintained.

Commissioner Thompson: And that would have something to do with it also?

A. Yes.

Commissioner Thompson: And did you consider that?

A. Oh, yes.

* * * * * * *

[fol. 1118] Q. Now, turning back to page 2 of the exhibit, general summary and allocation, what does that page reflect?

A. That page reflects a general summary of what the appraisal carries. For instance, the first item is a summary

of the gathering system, the cost new, and the present value; that is, the cost new less depreciation, in columns 1 and 2, respectively. The next item is transmission system, showing the cost new, and the cost new less depreciation, respectively, as shown by the appraisal. The third item is distribution system cost new and cost new less depreciation, and the total, less land, leases and rights-of-way. Do you want me to read the figures as I go?

Mr. Coates: They appear in here all written down.

Q. You may read those items until we get to the structural overheads.

[fol. 1119] A. The next item is less materials and supplies, which gives a total cost new, a present value as indicated by the appraisal of the purely structural elements of the appraisal. The next item is included with and incorporated in this amount as expense of purchase and storage deducted on account of being excessive, $39,320.00, and depreciated or cost new less depreciation is $29,687.00.

Q. This item of $39,320.00, what does that represent?

A. That represents the total of the item of purchase and storage as included in the unit prices, or set up separately against the various items of structural costs for the purchase and storage of the materials that went into the construction.

Commissioner Thomps-n: Then you depreciate that?

A. That is depreciated along with the elements that it enters into. In other words, if you have a pipe that costs $100.00, and the purchase and storage on it is $10.00, and that pipe depreciates out of existence, the purchase and storage expense depreciates out of existence along with it because it is a part of the cost of the pipe.

Commissioner Thompson: I understood this $39,000 was excessive cost; that is, things you figured should not have been that high?

A. Yes.

Commissioner Thompson: Then you depreciate that?

[fol. 1120] A. Yes; that is, those items have entered into the structural costs, and we have taken that out. If we had left them in the structural costs they would have been depreciated.

By Mr. Lange:

Q. In other words, the $29,687.00 is your depreciated item?

A. Yes, of course, both items are depreciated.

Q. And the item is deducted from the depreciated item?

A. That is correct, and the undepreciated value is deducted from the undepreciated cost new. Then, of the total cost, both allocated to Laredo, 83.18 per cent, giving a total allocation of $897,895.00, and the average condition is 75.5 per cent, giving cost new less depreciation of $667,711.

Q. That comprises the total physical property?

A. That comprises the total physical properties.

Q. Then after that you have a number of items, the first of which is——

A. Is preliminary and organization expense, which is 2 per cent.

Q. Now, in connection with these items of structural overheads, I will ask you whether you have prepared an exhibit, giving your explanation of those items?

A. Yes.

Commissioner Thompson: Do you wish to introduce it?

Mr. Lange: Yes.

[fol. 1121] Commissioner Thompson: It will be admitted as Exhibit "B".

Q. That exhibit is not very long, if the Commission please, and if you will permit I will have the witness to just read it into the record.

"In the promotion and construction of nearly every utility plant, certain costs are borne by the owner, which costs, while they have a direct bearing on, and connection with, structural costs, cannot be identified therewith in any physical form. These costs are called "Structural Overheads", generally, they are:

"(1) Preliminary & Organization Expense.

"(2) Engineering & Supervision During Construction.

"(3) Administration & Legal Expense During Construction.

"(4) Taxes During Construction.

"(5) Interest During Construction.

"Taking the above items in order—

"(1) There is no question but that there were some expenses incurred in the organization of the old Border Gas Company, and in connection with the preliminary work prior to the organization thereof. The matter of preliminary work, however, as relates to the discovery and development of a gas supply, has been eliminated by stipulation of the parties covering the price of gas to be charged at the mouth of the well. Preliminary and Organization Expense, [fol. 1122] then, is resolved into the matter of such expenses as were connected only with the organization of the Border Gas Company.

"The History of the situation is, briefly:

" 'While a well was being drilled for water on the Reiser Brothers' Ranch, East of Laredo, in 1908, gas was encountered and a gas well was successfully completed', subsequently, 'a considerable number of wells, approximately 29, were drilled in the Reiser fields'. What the cost of this development may have been, or the cost of the development of any other field involved in this case, is of no interest here for, as stated, this phase of preliminary expense has been eliminated from consideration.

"On February 18, 1909, Messrs. Reiser and Johnson, of Laredo, were granted a franchise by the City Council of Laredo to purvey gas within the City of Laredo. What, if anything, was paid for this valuable concession to use the streets and ways of the City, is nowhere disclosed, and in the absence of any proof that anything was, in fact, so paid, no allowance can be made now for same.

"Messrs. Reiser and Johnson, having two years from date of franchise to get gas into Laredo, did not undertake active operations.

"On April 2, 1910, the Border Gas Company, a Louisiana Corporation, was organized with a capital stock of $500,000. Subsequently, and before January 1, 1911, a transmission [fol. 1123] line was constructed from the Reiser field to Laredo, and the nucleus of a gas distribution system constructed within the City of Laredo. On December 23, 1910, the first gas fire was lighted in a home in the City.

"On January 1, 1911, the Border Gas Company took over the assets and assumed the liabilities of the Trustee for the properties, Mr. M. P. Cullinan.

"With a developed gas supply 22 miles from the City of Laredo and a franchise to serve gas to the City of Laredo, it is not difficult to visualize the ease with which organization was affected, and in view of the comparatively short interim between the date of the franchise and the time when the properties were completed and in operation, to realize the comparatively small cost of promotion expense and costs of organization.

"Courts and commissions have rather generally allowed as much as 3% of the direct structural cost for preliminary and organization expense. In view of the stipulation referred to, and of the history as related, an allowance of 2% of such costs is believed to be adequate and fair—

"Total Structural Cost	$897,895
"Allowance, at 2%	17,958."

Q. Now, that is the first item that you have under Preliminary and Organization on page 2 of Exhibit 1?
[fol. 1124] A. Yes.

"(2) Engineering is recognized as a real and necessary charge when properly applied in view of the history of the Companies' properties.

Beginning with January 1, 1911, when the said properties became an operating entity, the book value of same was $166,996.

"It is reasonable to assume that, prior to January 1, 1911, the construction of the whole of the said properties was accomplished under the direction of an engineer. Subsequent to January 1, 1911, with the exception of two independent engineering reports (one in 1912, which had to do with the gas supply, and the other in 1928, which was a valuation and gas supply report) and up to April 10, 1928, it is believed that all engineering services performed in connection with new construction (extensions) was done by the engineering staff of the Border Gas Company, and charged to Operations, in which event, the cost of such services was taken care of, currently, by the contributions of the rate payers. Such records of the Border Gas Company as have been available fail to disclose that charges for engineering services were made to Capital Account.

"The book cost of the properties of the Company, as of

"July 31, 1932	$1,183,052
"Book Cost—April 10, 1928	1,006,512
"Difference, for Engineering Fee	176,540
-Book Cost—January 1, 1911	166,996
[fol. 1125] "Total cost on which engineering and supervision is chargeable	$343,536

of 29% of Total Book Cost.

"Since 5% of the total direct structural costs is the usual fee for engineering and supervision, and as that portion of the properties on which a fee is chargeable is 29% of the total properties, the allowance for this item should be 29% of 5% or 1.45% of the total direct structural costs. In view of all of the above, it is thought that a liberal estimate for Engineering and Supervision is 2.5%—

"Total Structural Costs (Depreciated)	677,711
"Engineering & Supervision 2.5%	16,943."

Q. That is the second item reflected on page 2 of Exhibit 1, under Structural Overheads?

A. Yes. "In view of the history of the construction of the properties under consideration as related under previous headings, it is believed that 1.5% of the total direct structural costs of the properties is an adequate allowance for Administration and Legal Expense During Construction.—

"Total Structural Costs (Depreciated)	677,711
"Administration and Legal 1.5%	10,166."

Q. That is the third item under Structural Overheads on page 2 of Exhibit 1?

A. Yes, it is. "It has been shown that the original property of the Border Gas Company was constructed between [fol. 1126] April 10, 1910, and December 23, 1910. City and County Records do not disclose that any taxes were paid by the Company during the years 1910 and 1911, which was the construction period."

However, on January 31, 1913, the company did pay County Taxes of $8.13 on a value of $800.00 for 20 miles of line; that was in the County. For 1911, or for the year

1911, that was after the original construction period, and in the City the company rendered for 1911, and paid on April 30, 1912, $400.29 on a total valuation of $25,825.00.

Q. In connection with that, if the Commission please, we have the certified copies, and we will introduce certified copies from the Tax Collector's office.

Commissioner Thompson: All right, that will be all right. What he is reading is not in my copy here. You are testifying about the taxes the company paid?

A. Yes.

Mr. Coates: In 1911.

Commissioner Thompson: I do not quite see what that has to do with the reproduction cost new.

A. Well, the company sets up an amount for taxes during construction.

Commissioner Thompson: That is in the reconstruction of a new plant. What would be considered—I think you can generally assume that taxes are going to have to be paid. In this case they did not pay them, that is what you bring [fol. 1127] out?

A. It has never been my idea of a reproduction theory that you are entitled to have any expense considered which has not been actually paid. You cannot reproduce anything which has not previously been produced.

Q. For the stenographer's identification we will introduce this.

"The balance of the properties were constructed 'piece meal' and no single element of construction required as much as one year to complete. It is believed that no taxes, whatever, were paid on any items of construction in progress, hence no allowance for Taxes During Construction should be made. In the event, however, that any taxes were paid which were not charged to operations, an arbitrary allowance of 0.5% is being made for this item—

"Total Structural Costs	897,895
"Taxes During Construction 0.5%	4,489."

Q. That item is the fourth item under Structural Overheads on page 2 of Exhibit 1?

A. Yes. "It is recognized that, regardless of how money is obtained, it has an earning value, and that money tied up during construction, is entitled to earn a fair return. Such

a fair return is taken at 7% per annum." By fair return I do not mean the fair return in the sense of a fair return on operating property, but the interest rate that money would [fol. 1128] bear.

Q. There is a difference in the fair return on money borrowed, and the fair return on an investment?

A. Yes. "Although neither the original construction in 1910, nor any additions made to the Companies' properties since, has required as much time as one year to complete, for the purposes of this case, the period of construction is taken, arbitrarily, at one year; hence the average time which the Companies were held out of their funds during construction was 6 months—

"Total Construction costs (Depreciated)	677,711
"Interest During Construction 3.5%	23,720."

Q. That item is the fifth item under Structural Overheads on page 2 of Exhibit 1?

A. Yes.

Questions by Mr. Coates:

Q. Now, let me ask one or two questions. According to the way I see it, Exhibit "B" is the calculation of the general structural costs, or what are sometimes called general and undistributed overhead costs, contained in Exhibit "A"?

A. Yes.

Q. And Exhibit "A" insofar as direct structural costs is concerned is a reproduction cost new appraisal as of July [fols. 1129-1130] 31, 1932, is it not?

A. Yes.

. . . . . .

[fols. 1131] By Mr. Lange:

Q. Turning back to page 2 of Exhibit 1, Mr. Elrod, the next item after the five structural overheads represents what item; additional allowance for purchase and storage; what is that?

A. This is the allowance of $10,000 that, depreciated along with the structural elements, would be $7,550.00.

Q. The next item, what percentage does that represent?

A. Well, above we have allocated all of the structural ele-

ments except land and materials and supplies on the basis of 83.18 per cent. We are now adding back lands and rights-of-way and materials and supplies, and adding them back on the allocated basis. The 83.18 per cent of the lands and rights-of-way is $12,313, which do not depreciate, and the cost new less depreciation is the same figure $12,313. [fol. 1132] Materials and supplies allocated on the same basis, or $18,770, and since they do not depreciate either, their cost new less depreciation is $18,770.

Q. You have added the item of working cash; how do you arrive at that?

A. The working cash is calculated on the basis of two months operating expenses less the gas purchases. It amounts to $11,157.

Commissioner Thompson: You say you allowed two months working capital or working cash, I believe, you call it, on what theory did you take it that two months was sufficient?

A. Generally 45 days is the amount, or one-eighth of the years operating expenses on the basis that the company collects its accounts, and has the cash with which to pay its bills, and to operate on.

Commissioner Thompson: The money to be paid in 15 days after the first, is that it?

A. Yes, however, with the continuous meter reading system the company does not get all its money in by the time its bills are due, and so I have arbitrarily extended that to two months instead of the usual 45 days.

Commissioner Thompson: Thank you.

Q. That gives you a total rate base of $800,782?

A. Yes.

[fol. 1133] Q. As shown on page 2 of Exhibit 1.

A. Yes.

Q. Your appraisal does not disclose any allowance for going concern value?

A. No sir.

Q. Have you mad a study of that item?

A. Yes, I have.

Commissioner Thompson: The tax statement will be received as Exhibit "C".

Q. We introduce this statement of the witness as Exhibit "D".

Commissioner Thompson: It will be received as Exhibit "D".

Commissioner Thompson: I believe you said, Mr. Elrod, that in considering cost of reproduction new that it would be wrong to consider taxes, if not for taxes which were paid in the figure that would be contemplated?

A. Yes.

Commissioner Thompson: And if actually it was not paid, then it would not be right to figure it?

A. Yes. I do not believe it would be right to include anything that had not originally been produced.

Commissioner Thompson: Reproduction new would necessarily include those things only which were originally produced or paid?

[fol. 1134] A. Yes.

Mr. Lange: And the very word of reproduction would contemplate that, if the Commission please. You cannot reproduce anything which has not been produced.

Commissioner Thompson: I was just thinking about it.

A. I think the courts and commissions have rather generally recognized that fact.

Mr. Coates: Now, we object to what the courts and commissions have held. This man is not a lawyer.

Commissioner Thompson: Yes, it will be stri-ken from the record. I was just asking for an engineering opinion. You say there is no going value to this outfit?

A. I have found none.

By Mr. Lange:

Q. Mr. Elrod, in connection with this exhibit I will ask you as an engineer what is your conception of going concern value in a rate case?

A. It is that value that represents the cost——

Q. If you wish you might read this, if you have it in your exhibit.

A. "Going value is that value which represents the sacrifices, in addition to direct structural costs, and having no connection therewith, which the owner of a utility may make to carry the operations of the utility to a time when a fair return on the value of the properties devoted to public use [fol. 1135] is earned.

"Such sacrifices may be termed 'Development Costs', and generally, include such items as:

"Drafting and training an operating personnel.

"Coordination of operating elements, both mechanical and human.

"Preparation of systems of accounts and records.

"Solicitation of business by personal effort, advertising and demonstrating.

"Any and every sacrifice, or cost, of whatever nature not a part of structural costs, which may be necessary to produce a remunerative business."

Mr. Coates: Are you an accountant?

A. No, sir.

Mr. Coates: Your next statement in Exhibit "D", it occurs to me, refers to accounting procedure, and we object to it, because the witness is not an accountant.

Mr. Lange: If the Commission please, I asked the witness to testify with reference to this item as an engineer in the light of his experience. He has given his qualifications to this Commission. He has, in connection with that, and among those qualifications, given, included the Galveston Electric Case; that was the first case that ever went to the Supreme Court of the United States wherein a definite [fol. 1136] theory was formulated as to what going value should be, and it was excluded in that case, and this witness is now testifying as to his opinion, and in the light of his experience what his opinion is of going value in a rate case.

Mr. Coates: There have been a great many cases which have gone to the Supreme Court since then.

Mr. Bobbitt: It never has been changed.

Mr. Coates: I will argue that on brief.

Commissioner Thompson: Go ahead.

A. "There are only two ways in which the element of Going Value may be handled from an accounting standpoint. One is to charge such costs directly to Capital Account; the other is to charge these costs to Operations.

"If these costs are charged to Capital Account, the books of the utility will reflect the exact amount thereof. In the event that they are charged to Operations, and there has been an insufficient revenue to cover them and leave a fair profit, then these costs will be reflected by an operating deficit. If, on the other hand, there has been sufficient revenue to cover such costs, and leave a fair profit, or return, then these costs have been taken care of through the contribution of the rate payers.

"Since going value bears no definite relation to direct structural costs and so, cannot be estimated as a percentage [fol. 1137] of such structural costs, there is only one way to arrive at the amount of Going Value, except through estimates based upon purest speculation and conjecture. This one way is to consider the financial history of the utility—its books and/or records.

"Such books of accounts and records, which have been available in the instant case, do not show any amount for Going Value; it is reasonable to assume, then, that the costs of the elements of Going Value were charged, and properly, to Operations. An audit of the books of the Border Gas Company by the City of Laredo's Auditor, indicates that from the first year of the Company's operations, it earned a fair return on the book value of its properties, and that it set up a depreciation reserve far in excess of its requirements.

"The history of the construction of the Company's properties indicates that about April, 1910, the Border Gas Company was organized and that some time later a transmission line was built from the Reiser gas field to Laredo, and a distribution system built in the City., That the actual delivery of gas to consumers in Laredo began in December of the same year.

"The history of the Company further shows that the distribution system was not built as a whole, but that it grew, block by block, as consumers were available. There is no evidence of any advertising, soliciting or demonstrating, other than by the merchandising sales department, [fol. 1138] having been done, the cost of which was not charged to operations.

"In view of the history of the Company, and where, as in this case, an old and long established utility has enjoyed a long period of successful operation, and has earned a fair return from the very start and has taken, from gross revenues, reserves for depreciation far in excess of reasonable requirements, it is obvious that there can be now no sacrifices, no Development Costs, no early losses, or deficits of fair return from operations, which have not been fully compensated for.

"Therefore, and in view of the fact that reasonably ample allowances have been made for direct constructional 'Overhead' costs, such as——

"Organization,
"Engineering and Supervision,
"Administration and Legal Expense,
"Taxes during Construction, and
"Interest during Construction,
and that the properties of the Companies have been evaluated as Going Concerns, as distinguished from similar concerns which are not 'Going', and perhaps for other reasons not included in the above but which may be presented, no separate allowance for Going Value has been made."

[fol. 1139] Cross examination.

By Mr. Coates:

Q. Mr. Elrod, refer to Exhibit "A", transmission line equipment shown on page 80 to 90 of the transmission section; on page 87 of the section, page 111 of the exhibit, you show 6 and five-eighths inch O. D. pipe, weighing 18.974 pounds, two joints, welded and Dresser coupled, painted with Epco paint, at a unit cost of $1.09 in round figures. Will you break that unit cost down, Mr. Elrod, [fol. 1140] starting in with the mill price of the pipe including the freight and going on through the material, and then give us the break down of your labor costs.

A. Did you say that was 8 inch pipe?

Q. No, it is 6 and five-eighths inch O. D., 18.974 pounds, two joints welded and Dresser coupled. It is the second item on page 87; what is the price of that pipe F. O. B. the mill, per foot, if you have it set up that way?

A. I do not have it set up that way, the pipe F. O. B. Laredo.

Q. No, I want pipe F. O. B. the mill.

A. I have not got it set up that way. I have it pipe F. O. B. Laredo, $.64520.

Q. Is that dollars per foot?

A. Yes, 64.52 cents per foot.

Q. Is that based on a quotation?

A. Yes.

Q. From whom?

A. From the Bethlehem Steel Company.

Q. Have you the original quotation with you?

A. Yes.

Q. Do you mind letting us have a copy of it?

A. I do not have it in condition to be copied.

Q. Do you mind trusting us with the original until it can be photostat-ed?

[fols. 1141-1153] A. I am perfectly willing to convince the Commission that it is authentic, but that is information that we have gotten more or less confidentially.

Commissioner Thompson: You mean quotations are confidential?

A. That is one of the difficulties that a consulting engineer has in getting prices.

Commissioner Thompson: If you write and tell them it is for a valuation purpose, they will give them to you, won't they?

A. They will not give you the prices you want, and I do not know that the prices I have are the prices that the company gets, and I am pretty confident that they are not, because I am told those were the market prices.

* * * * * * *

[fol. 1154] Testimony of J. D. Shaw

Direct examination.

By Mr. Lange:

Q. State your name, age and place of residence.

A. J. D. Shaw; I live in Houston; 51 years old.

Q. What is your present occupation, Mr. Shaw?

A. In consulting work in the last year.

Q. Have you any engineering degrees?

A. Yes, I have a statement here of my experience.

Q. Will you please let us have that; it is not very long, and we will have him read it into the record.

Commissioner Thompson: That's all right. That is the greatest joy these experts have, to give their qualifications. Let him go at it as long as he likes.

A. "I am a graduate of the University of Texas, with a B. S. Degree, and of Cornell University, with M. E. degree, and took the Student's Test Course with the General Electric Company. I was, for one year, instructor in engineering at Texas A. & M. College.

"Under the supervision of the Chief Engineer of lighting and railway interests, subsidiaries of the Philadelphia

Gas Company, I had charge of the construction and maintenance of the underground electric transmission system, and, as a part of my duties, completed the electrolysis mitigation investigation and its construction work in con-
[fol. 1155] nection with the protection of the natural gas and water mains in the cities of Pittsburg and Allegheny, Pennsylvania.

"About half of my engineering experience has been in a consulting capacity, mostly for municipalities; six years in a partnership business, also three years with Mr. H. E. Elrod, Consulting Engineer, and two years with Engineering Service Corporation, Consulting Engineers, of Houston.

"In my private work, I have held ownership in ditching machines for carrying on our construction work, and have constructed a number of water and sewer systems in Texas and Arkansas. I have had charge of numerous appraisals, for purchase, and for rate cases, including the gas distribution system at Wichita Falls, with Mr. Elrod, irrigation systems at Harlingen and San Benito for purchase by the farmers, the appraisal of a number of water works for purchase by municipalities, the appraisal of the gas plant at Waco, et cetera.

"In the public utility work, I organized and operated for some time, the general stores, shops and laboratory for the Texas Power & Light Company, and had under my direct supervision the maintenance of plant mechanical equipment over the system, including gas equipment and meters in the plants at Waco and four other Texas cities.

[fol. 1156] "While with these electrical interests in North Texas and subsequently with Stone & Webster interests in East Texas and Southwest Louisiana, I participated in, and had, in many instances, direct charge of the design, construction and maintenance of electric power plants, gas generating plants, water systems and electrical distribution and transmission systems and as Construction Superintendent, carried out the construction of the electric transmission lines for serving of the municipalities and oil fields of Southwest Louisiana and East Texas.

"While associated with the Engineering Service Corporation, I participated, along with other work, in gas engineering, including the preliminary field location for a new gas supply to serve the City of San Antonio. Subsequently, with the Moody-Seagraves interests. I had charge of collecting field data and surveying existing gas lines with a

study for a system of records, being under the supervision of Mr. H. C. Howard, Vice President and Chief Engineer. While on the work at Marshall, and while supervising there the engineering work on the reconstruction of the gas mains ahead of a large paving program by that City, I was transferred to make a survey of the possibilities of supplying natural gas to Southwest Louisiana. I devoted my entire time to this work for one year, and had direct charge of all preliminary field engineering work, the securing of fran-
[fol. 1157] chises, and assisted in making the preliminary reports and estimates.

"After the control of the United Gas System passed from Moody-Seagraves, I continued my services under the supervision of the new Vice-President, and then under the present Chief Engineer, Mr. A. D. Green.

"When the transmission lines were nearing completion, and after the distribution systems had been laid out and construction begun, I resigned from United Gas to re-enter the employment of the Moody-Seagraves to take charge of the preliminary field surveys on large proposed natural gas project. A sudden stock market break in April, 1931, caused a suspension of these plans, and I went to Florida for these same interests, where I completed the engineering surveys and estimates on a number of butane gas distribution systems, secured franchises, completed the construction of one distribution system and construction systems in two other towns. One year ago all construction operations in Florida were closed down, when I returned to my permanent home in Houston.

"At this time I am assisting Mr. H. E. Elrod."

I might state, in addition to this, during the past summer, I associated with the Engineering Service Corporation in the early part of the summer, and I made a report on the operation of the municipally owned gas plant in the City
[fol. 1158] of Houston, and investigated the question of leakage and change in design to improve the efficiency. That is a property of about 5000 meters, about the same number of meters almost they have here in Laredo.

Q. In that list of matters that you handled, you included items of design construction and preliminary operation of natural gas systems, or natural gas plants, I should say, and natural gas transmission lines. Just tell the Commis-

sion to what extent you have engaged in that character of work.

A. At Marshall, Texas, I was engineer there in charge of the construction until the time I left there.

Q. That was natural gas?

A. That was natural gas. That was reconstructing ahead of pavement. I was there until they took me off and sent me to Louisiana.

Q. What did you do in Louisiana?

A. Well, the first work I did over there I took parties and made a survey of the possibilities of using or supplying gas to Southwest Louisiana, and we made preliminary estimates and reports on that after I completed the field data. I assisted in that. That was about a 6 million dollar project.

Q. Approximately how many miles or lineal feet of [fol. 1159] natural gas transmission system lines have you constructed?

A. I have not constructed any natural gas transmission lines; I have been only in an engineering capacity on them.

Q. Supervising or designing?

A. In Louisiana probably about 75 per cent of the transmission lines were constructed while I was there, and I saw all the work constructed up to that point, and the distribution systems were laid out under my supervision in the field, and finally under Mr. Greene.

Q. Which Mr. Greene do you refer to?

A. Mr. A. D. Greene.

Q. The same man who testified here in this case?

A. Yes.

Q. Did you supervise the construction of any natural gas transmission system?

A. Not in Louisiana. In Florida I completed the construction of a butane gas system, which is natural gas in a bottled form. It is an odorless gas just as natural gas is, and I also had charge of construction and completed construction in two other towns.

Q. You were called by the City of Laredo in October of this year to prepare, with Mr. H. E. Elrod, who preceded you on the stand, an inventory and appraisal of the physical properties of South Texas Gas and Texas Border Gas Company, used and useful in serving the City of Laredo?

A. Yes, I was called over on October 12th.

[fol. 1160] Q. Of this year?

A. Yes, that was either a Wednesday or Thursday.

Q. Did you immediately proceed with that work?

A. Yes, I did. I went over the work as complete as I could, and left here on the following Tuesday for Houston.

Q. Have you devoted your entire time since then to that work?

A. Yes, the entire time.

Q. Have you, together with Mr. H. E. Elrod, prepared this inventory and appraisal which has been introduced as Exhibit "A"?

A. Yes.

Q. Turn to page 1 of the exhibit, Mr. Shaw, there appears an item of deduction, $65,257.00; will you explain that to the Commission?

A. Well, that includes the omissions on the Mirando City-Oilton transmission line, and the structures, and also the gathering system on the east triangle of the Jennings Field.

Q. In other words, that item is deducted from the total appraised value as appearing in the inventory and appraisal of the gas company's report?

A. Yes, of the South Texas Gas properties.

Q. Where is that gathering system; where does it lie with reference to this map?

A. This is the gathering line and the transmission line [fols. 1161-1172] is this right here?

Q. For the purpose of the record the gathering system lies east of the triangle?

A. Yes.

Q. In other words, between the points called check meter at Jennings Junction and Jim Hogg Junction, the line checkered in green and red?

A. That is right.

Q. Now, the gathering lines to which you referred.

A. These are the gathering lines which you have just mentioned, and the transmission line is Aguilares Junction, shown partly as 8 inch, and partly as a four inch line to Mirando City, and then from Mirando City to Oilton.

Q. All shown in red?

A. Yes.

Commissioner Thompson: That is what is left out?

A. Yes.

Commissioner Thompson: Because you figured it was not necessary here?

A. It was not used or useful to the City of Laredo.

Q. We wanted to explain those two items to the Commission as appearing here.

Commissioner Thompson: You left them out because they were not used or useful to the system?

A. Yes.

* * * * * * *

[fol. 1173] Q. Page 111 of the exhibit, transmission line equipment, Jennings Field to Pescadito Junction; the first item is 4 and one-half inch O. D. pipe, which you gave a unit price of $.7681, cost new $70.00, and an 85 per cent condition; did you have occasion to inspect that section of pipe?

A. I did not, I left the condition the same as the company had it.

Q. Is there any change in per cent condition in any of the other sections of that transmission line appearing on that page?

A. Yes, on one item.

Q. Which one?

A. The 6 and five-eighths inch O. D. pipe.

Q. Which item is that?

A. That is the third item; that is 140,265 feet. I reduced the condition from 85 to 52 per cent.

Q. Why?

A. That is, my condition on that was based on numerous observations, and from the age of the pipe.

[fols. 1174-1197] Q. From actual inspection?

A. Yes.

Q. This pipe is what we call sheet wrapped.

A. Yes, and some of the original wrapping, asbestos and felt wrapping was on it, and in my estimation this pipe would have been a good deal better off if it had just been painted and not wrapped at all, because the erosion and rust is largely on the inside, and the evidence is that it has acted largely as a catch for the water, and this line, I understand, has not been in a serviceable condition for a year. I do not see hardly how they could use it. I notice a good many sections where wooden plugs had been put in and pulled out, and numerous clamps, and they were set in at

an angle, and mostly on the bottom, showing that is where most of the leakage and corrosion was taking place.

Commissioner Thompson: It is almost unusable?

A. Yes, sir. It has to come out before very long.

[fol. 1198] Testimony of HENRY D. ELROD

Q. Now, Mr. Elrod, you call Exhibit "A", shown by the title on the cover, "Appraisal". What kind of an appraisal is this?

A. This is a reproduction appraisal.

Q. As of what date?

[fol. 1199] A. Cost new less depreciation, as of July 31, 1932.

Q. As of July 31, 1932. Now, what is your concept of a reproduction cost new less depreciation appraisal?

A. It is applying to the inventory of materials actually counted or set up, present day prices; that is, to represent the cost new of the then existing properties at the time of the appraisal.

Q. And what is the basic assumption in the case of a reproduction cost new less depreciation appraisal?

A. There are a number of them. One, perhaps the most generally used, is that if the properties as existing on a given day——

Q. Excuse me, Mr. Elrod, I am not breaking in, but let me make this explanation. When I ask you a question, I direct it to the basic assumption which you have employed. I do not want to get into a general discussion of theories, but my question in this case was meant what basic assumption have you employed in connection with your reproduction cost new less depreciation appraisal, called Exhibit "A".

A. After an inventory of the properties as they existed on a given day, has been prepared, prices as of that time are applied, and the totals subjected to the depreciation which has occurred in the properties.

Q. Well, now, aren't you talking about simply pricing, or repricing, an inventory, rather than a basic assumption [fol. 1200] for a reproduction cost new less depreciation appraisal?

A. Well, I cannot subscribe to the theory that we have to reproduce the business on the basis of the assumption that the properties are suddenly blotted out over night, and you have to rebuild a new plant.

Q. You say you cannot subscribe to that theory?

A. No.

Q. And you do not carry that theory or that concept into effect in the case of Exhibit "A"?

A. No, what I do is to take the identical properties as we find them, list them, and price them as of the present day.

Q. Now then——

Mr. Bobbitt: Are you through with your answer?

Q. I beg your pardon, I thought he was through.

A. And price them as nearly as possible to price them in view of the history of the construction, to represent as nearly as possible the fair value of the properties or the identical properties as of the date of the appraisal.

Q. Now, you say you took this inventory and priced it as near as possible, in view of the history of the construction?

A. Yes.

Q. Now, you know, of course, that the distribution system of Texas Border Gas Company was constructed piece meal and by annual expenditures from time to time over a period [fol. 1201] of 21 to 22 years, don't you?

A. Yes.

Q. And that that is the actual history of the construction of the property?

A. Yes.

Q. And which inventory of which property you have carried into Exhibit "A"?

A. Yes.

Q. Now, in making the appraisal of the distribution system property, did you price it out on the basis of prices to be applied on piece meal construction?

A. I believe I did, as nearly as possible to do it.

Q. You did as nearly as possible to do it?

A. Yes.

Q. That is, you contemplated that the property would be constructed over some 22 years period, with yearly additions, starting with a small nucleus?

A. Yes.

Q. In taking the prices of material did you contemplate purchases in wholesale quantities?

A. Yes.

Q. You contemplated that, although that would not be true by yearly additions to property which grew by accretion, would it?

A. A very large part of the property was constructed at [fols. 1202-1206] a time when the City was contemplating a paving program.

Q. That is the part of the property under paving?

A. Yes, and I have considered that a properly managed company would buy pipe in wholesale lots for making extensions.

Q. That is, that it would buy property in quantity purchases, and then carry that property on hand until it had occasion to use it?

A. That is it.

* * * * * * *

[fol. 1207] Q. Mr. Elrod, some of our people think that perhaps I did not understand you correctly, and will you state [fol. 1208] again to clear me up, and for the benefit of the record in this case, the reproduction cost new concept which you used and applied and carried forward into Exhibit "A" in this case.

A. I endeavored to reproduce the identical properties in the manner that they were originally produced as present day prices; in other words, to take the properties that are here now and in the light of such history or knowledge that I have of them to apply present day prices, to represent as nearly as possible the present fair value of the properties as they stand, as of July 31, 1932, and not a reproduction of a substitute plant.

Q. You say that that includes reproducing the same plant that the company has here now, but in the manner that it was produced or built over a period of 21 or 22 years?

A. As nearly as we can arrive at the elements in the property; that is, we have endeavored to get a fair picture—of course we cannot get it exactly accurate because it is all an estimate, but we have endeavored to get it fairly representative.

Q. I would like to know whether you subscribe to this concept of a true reproduction estimate, and that is what

it would cost to reproduce a similar plant at the present time?

A. I do not subscribe to that.

Q. And do you subscribe to the proposition that repro- [fol. 1209] duction value should include proper allowances for organization and other overhead charges that would necessarily be incurred in reproducing the utility at this date?

A. No, because I think that no cost ought to be based on pure estimate or conjecture that could be arrived at by a study of the history. In other words, if it is possible to ascertain with any definiteness what has been actually spent for these items referred to, that those costs should be used as a measuring stick or yardstick to arrive at that.

Q. And do you subscribe to the proposition that the necessary overhead expenses, such as would necessarily be incurred in reproducing the utility today, should be included?

A. Will you read that question?

(Reporter reads question to witness.)

Q. —in a true reproduction cost estimate?

A. That depends upon what you mean by the necessary overhead. I have included such overheads as I have considered necessary; such as organization, or preliminary and organization expense, engineering during construction, and administrative and legal expense.

Q. Have you based your computation of those general overhead costs on what those costs would necessarily be for the same properties that we have here in question, if [fols. 1210-1298] they were reproduced at this time?

A. Will you read that question for me, please?

(Reporter reads question to witness.)

A. Well, I might answer that question with qualification. The amounts I have allowed for the general overheads or structural overheads are not what are shown by the records. For instance, the records show that during the original construction only $400.00 was paid for taxes and I stated that I did not believe that any other taxes had been paid on items during construction, but that I did allow four thousand and some hundred dollars for that item, and all along——

Q. Now, if I may break in, is that your estimate of the taxes during construction that would be incurred if the field gathering system, transmission system and distribution system properties included in Exhibit "A", and likewise in Exhibit 1, in this case, were wiped out or rubbed out and reproduced today, just as they are?

A. I do not and cannot conceive of a situation where this property would be wiped out and blotted out of existence, and have to be reproduced. I have reproduced the properties, the plant, in as nearly as identical, as possible, a manner as it was originally produced, in order to arrive at what I consider the present fair value of the properties for rate making purposes.

* * * * * * *

[fol. 1299] TESTIMONY OF JOHN P. KINNEY

Direct examination.

By Mr. Lange:

Q. State your name.
A. John Patrick Kinney.
Q. Where do you reside, Mr. Kinney?
A. San Antonio.
Q. What is your occupation, Mr. Kinney?
A. A public accountant.
Q. You state you are a public accountant?
A. Yes.
Q. For the purpose of the record will you just briefly state to the Commission your experience in connection with that work, and your qualifications?
A. "My education consists in the attendance and completion of Grammar and High School, and I am a graduate of St. Edward's University of Austin, Texas, from which I have received the M. A. Degree in June, 1906.

"During the years 1907-1908 I attended a commercial college, after which I took a position as clerk for the Missouri Pacific Lines, and was later made station accountant and later in turn was made Auditor until the year 1914, when I matriculated in the Law Department of the University of Texas. During 1914 I also entered the practice of Public Accountancy, working with the late Milton Morris, C. P. A., and Utility Specialists, making an audit of the Water and [fol. 1300] Light Department of Austin, Texas.

"From 1914-1918 I was engaged in the practice of Public Accountancy in Dallas, Texas, being connected with the firm of Peter and Moss, Certified Public Accountants, making audits of all classes, including cities, counties, commercial enterprises, small utilities, etc., this work carrying me into practically all the southwestern states.

"During August, 1918, I enlisted in the service of the U. S. Army, being commissioned as a first lieutenant and worked as auditor in the commandeering section, Department of Purchase and Supplies, engaged principally in checking cost-plus contracts.

"From 1919 to the present time, I have been continually engaged in the practice of Public Accounting throughout the southwestern states, making all classes of audits, including utilities. I am at present engaged in making continuous audits for water and light, railway, and natural gas utilities in the Republic of Mexico.

"I am at present Staff Manager of the firm of F. G. Rodgers & Co., Certified Public Accountants, with offices located in San Antonio, Fort Worth and San Angelo, Texas.

"During 1928-1929, I was manager of our San Antonio office, and during 1930, was manager of our Fort Worth office, after which I was placed in charge of the staff of our [fol. 1301] San Antonio office, principally for the purpose of supervising a ten year audit of the City of San Antonio and its municipally owned water works, supervising some fifty or more accountants. I may further add that I have conducted independent audits for the I. & G. N. Railroad, Anheuser-Busch Brewery, and the U. S. Government War Activities.

"I am a member of 'The National Association of Cost Accountants', 'The Texas Society of Certified Public Accountants' (Associate membership). 'The National Association of University Instructors in Accounting.'"

Q. Mr. Kinney, I will ask you whether or not you were engaged by Mr. A. J. Neff sometime last year to make an audit of the Texas Border Gas Company and South Texas Gas Company for the City of Laredo?

A. I personally made the contract with Mr. Neff on behalf of our firm for such work.

Q. Did you personally take over that work, and complete it, or just a part of it?

A. That was assigned to various members of the staff.

Q. What part did you do?

A. From the inception of the Border Gas Company up to and including April 10, 1928.

Q. I will ask you whether or not in connection with that work, you computed the figures upon which this exhibit is based, and if it is from the books of the company?

[fol. 1302] A. I did the work from 1910 up to and including April 10, 1928.

Q. We desire to introduce this exhibit in evidence.

Commissioner Thompson: It will be received and marked Exhibit "E". Mr. Coates, they said some figures were in here past 1928, and I take it your objection goes to all of that. He said there were some figures up to 1932.

Mr. Coates: We object to any and all accounting data within the accounting period covered by the accounting exhibit introduced by the City in this case.

Commissioner Thompson: All right, go ahead.

By Mr. Lange:

Q. Mr. Kinney, what does this exhibit reflect?

A. This exhibit reflects the historical costs of the fixed capital as shown by the companys' books.

Q. What companies?

A. The Border Gas Company, the Texas Border Gas Company and South Texas Gas Company.

Q. Referring to the classification at the extreme left of the exhibit "Year, Border Gas Company", the first item being in 1910, "Construction", and to the column immediately to the right, the heading "Historical Costs per book". What does that mean?

A. It means the amount as shown by the records of the actual physical properties taken over by the Border Gas Company from the former franchise holders, Johnson & Risor.

[fol. 1303] Q. And the first item under that heading is $166,996.68; is that the item to which you were just referring?

A. Yes.

Q. Now, will you explain where you found that item, and what it consists of?

A. Well, the opening entry on the Border Gas Company's books was very condensed; that is, setting up the capital and surplus and its offsetting charges; in order to arrive

at and build up the capital up to April 10, 1928, it was necessary for me to establish a beginning point. The opening entry on the Border Gas Company books did not give that. It just simply stated so much fixed capital and so much cash, and notes, and so on, and the capital stock and surplus, but calling for the vouchers at this office here we had to hunt around a considerable length of time, and finally through some papers in this office here, and finally unearthed an inventory in the sum of $179,101.04, if I am not mistaken, which gave a detailed inventory of that amount, and eliminating some $12,000 which was transferred to material and supplies——

Q. A detailed inventory of what?

A. This $166,996.68.

Q. Did you have a copy of that inventory?

A. Yes.

Q. May we see it; is that item reflected on it?

[fol. 1304] A. Yes.

Q. Where did this inventory come from; where did you get it?

A. Copies of this were given to me by the then chief accountant of the Border Gas Company, Mr. Thorne.

Q. And is this one of the copies that was given to you?

A. Yes.

Q. How were these papers sent; were they given to you, or sent to you, or how did you get possession of them?

A. There were some missing vouchers that in checking out the original entries, some vouchers were missing which Mr. Thorne said possibly had been transferred to Houston. Some were here, and some were in Houston, and I asked him if he could locate certain information, would he give it to me, and he sent it to me at San Antonio.

Q. And these papers were all together, and sent to you on that request?

A. Yes.

Q. Will you state what this inventory reflects?

A. Border Gas Company, balance of investment, December 31, 1910; Real Estate, $150.00; Rights-of-way, $10.93; buildings, $14.72; tools, $34.13; fittings, $17,360.05; telephone lines from Riser to Laredo, $1,601.95; labor, teaming, freight and miscellaneous, $31,718.83; gas receivers and regulators, $2382.20; gasmeters, $5791.00; office furniture,

$332.68; horses and wagons, $225.00; automobile, $1535.00; [fols. 1305-1313] line pipe of various sizes, $117,940.61, or a total investment of $179,101.10.

Q. I will ask you whether that amount agrees with the total plant account shown in the Trustee's books?

A. That amount was the final amount shown in the Trustee's books as of the end of December for the trial balance.

Q. December of what year?

A. December 31, 1910.

Q. And when were these properties taken over by the Border Gas Company; January 1, 1911?

A. So far as the records disclose.

Q. And from that total you arrive at the total of $166,996.68 in what manner?

A. After deducting from that account the sum of $12,104.42, which was transferred to the warehouse stock account, returning the cost of the actual properties at January 1, 1911, to $166,996.68.

* * * * * * *

[fol. 1314] Q. Now, I want the witness to identify this other exhibit. Do you have a copy of this, Mr. Coates?

[fol. 1315] Mr. Coates: I cannot tell what you mean by this, Mr. Lange.

Commissioner Thompson: Are you going to introduce it, Mr. Lange?

Mr. Lange: Yes, it is a statement of the earnings of the company. Mr. Kinney, in conection with the work that you did at that time I will ask you whether you computed from the company's records a statement of the earnings of the companies?

A. Yes.

Mr. Lange: We desire to offer that exhibit at this time.

Mr. Coates: We have the same objection.

Commissioner Thompson: It will be received and marked Exhibit "H", and the objection will be noted.

By Mr. Lange:

Q. Mr. Kinney, the first page of that exhibit, Page 1, is headed Border Gas Company and Texas Border Gas Company and South Texas Gas Company comparative statement of earnings for the period ended December 31, 1931. Now,

did you compute the figures on that page from the company's books?

A. Not all of them, no.

Q. How far did you go?

A. Up to and including April 10, 1928.

Q. And from then on who did that work?

[fols. 1316-1331] A. Mr. Lewis.

* * * * * * * * *

[fol. 1332] Redirect examination.

By Mr. Lange:

Q. Just this question. I believe you testified, Mr. Kinney, that as late as the period of 1928, through the years from 1910, on through 1928, the company, as late as April, or the first months of 1928, still in computing their depreciation, brought forward, or utilized that total of $166,996.68?

A. At the end of the year when they would set up their depreciation charge against operation, they would take that into consideration.

Q. As late as the year 1928?

A. Yes, I have copies of the journal vouchers.

Q. You were asked with reference to whether or not you found there was any ownership by The Texas Company in this property; you found no evidence of actual ownership by The Texas Company of any stock or any of the property?

A. Just considerable transactions; in fact, The Texas Company had one account on the books showing all trans-

[fols. 1333-1352] actions, which was very voluminous.

Q. In making that audit you did not find any actual stock ownership by The Texas Company?

A. I did not go into the stock ownership.

Q. Were you able to find, or did you attempt to find whether The Texas Company derived any management fees from the company in that period?

A. No, I did not go into that. About the only thing regarding The Texas Company is at the close, April 10, 1928, some dividend entries passed between this company and The Texas Company; quite large dividend entries.

* * * * * * * * *

[fol. 1353] Testimony of H. E. Elrod

Q. So you have taken the information given you by [fol. 1354] somebody else?

A. Yes.

Q. Do you know whether that was information based on hauls by five ton trucks with trailers over country roads?

A. No, I do not know.

Q. Do you know of your own personal knowledge whether you could economically haul pipe with a five ton truck and trailer over this country you have to traverse?

A. It would depend on the bridges there, and you could not do it with those bridges.

Q. You would either have to use those bridges or build new bridges, wouldn't you, Mr. Elrod?

A. Well, you might be able to go around and cross the draw some place.

Q. Do you know of your own personal knowledge——

A. My information about the cost of this trucking——

Commissioner Thompson: He is merely asking you about your own information.

A. I have had no experience personally.

Q. You do not know the kind and character of truck that you would have to use, or that would be most economical to use on that character of work, do you?

A. Gas pipe line work, no. I just started to say that my information came from a contractor here in town, Mr. Wilson, who has done gas pipe line work, and who is familiar [fols. 1355-1376] with this territory.

Q. Now, Mr. Elrod, if you are going to come up here and quote what Mr. Wilson says, and he is not here subject to cross examination, that is the rankest kind of hearsay.

Commissioner Thompson: Do you have a quotation or a bid from him, an offer to do it at that price?

A. No sir, Mr. Wilson had been in my employ for some years.

Commissioner Thompson: We won't consider it.

A. I might say here it is particularly difficult for a city in a case like this to get consulting engineers to testify as to actual experience because I do not believe they are available.

Commissioner Thompson: The Commission is well aware of that, and we are very liberal in trying to help out.

A. We have made an honest and earnest endeavor to try to get at what we concluded to be a fair estimate of the fair value of this property at this time.

. . . . . .

[fols. 1377-1379] Q. Now, why did you leave out of consideration any part of that gathering system?

A. Because from the information I had it served no useful purpose for the City of Laredo.

Q. What do you mean served a useful purpose?

A. That no gas is being brought around the triangle from that field to serve Laredo.

. . . . . .

[fol. 1380] Commissioner Thompson: Do you know, as a matter of fact, whether the line from Pescadito to Jennings Junction is operated or not?

A. I believe it is in-operative; we have had information to that effect.

Commissioner Thompson: Is that the reason you left it out?

A. Are you talking about this line to the Jennings field?

Commissioner Thompson: Your information was, in effect, that the line was not used because it was in bad shape?

A. Yes.

Commissioner Thompson: It was porous like a sieve, full of holes?

A. Yes, that is the information I had.

By Mr. Coates:

Q. Who gave you that information, Mr. Elrod?

A. I got that information from Mr. Shaw and Mr. Lewis, the auditor.

Q. Through your assistant and the auditor?

A. Yes.

[fol. 1381] Q. And it was on the basis of information thus gotten that you left that gathering system in the east Jennings Field out?

A. Yes, and I have seen that line, and my judgment is that it could not economically handle gas at this time.

Q. Have you, in your experience, ever had occasion in the case of gas pipe lines to make differentiation between service efficiency and service capacity?

A. No sir.

Q. Do you know whether a gas pipe line becomes in bad condition by reason of corrosion all along its length or by reason of corrosion in what is known as hot spots?

A. I know that there are hot spots and it corrodes more there than elsewhere.

Q. And a section of pipe laid in a good bit of land might last a long time, whereas, when it has been laid in a hot spot it might have a very short life?

A. Yes.

Q. And did you know whether science has advanced enough to give absolute protection to pipe laid in a hot spot?

A. I think not.

Q. Then if a line three or four miles long had several hot spots in it, and a big leak in its hot spot, it would reduce its service efficiency?

A. Yes.

[fol. 1382] Q. Would it lose all its service capacity?

A. No.

Q. If the leaks were fixed its service capacity would be absolutely restored?

A. Yes, if the leaks were fixed.

Q. Now, where do the hot spots occur in this territory?

A. They occur in several places along the Pescadito-Jennings line, and along the line from the City of Laredo to the Carolina-Texas field.

Q. Do they occur on high land or on low ground?

A. Low ground, usually.

Q. What makes a hot spot hot?

A. The soluble salts in the soil, and the presence of moisture.

Q. That is what is generally known as alkali?

A. Yes.

Q. And it takes a combination of moisture and this alkali soil to make what is sometimes known as corrosive soil?

A. Yes.

Q. And, of course, that moisture would collect in the low places, wouldn't it?

A. Yes.

Q. Now, how many test holes were dug on the gathering system in the west Jennings field, and inspected by you?

A. None.

[fol. 1383] Q. None. Did you observe any part of that pipe in the west Jennings field gathering line?

A. No sir.

Q. How many test holes were dug on the Jennings-Pescadito transmission lines, and observed by you?

A. I do not know that any test holes were dug; that is, no test holes were dug for me.

Q. Did you observe the pipe where any test holes were dug, whether dug for you or not?

A. I have observed the pipe at several places where the pipe had been dug around, or where it was exposed in draws, and so on.

Q. That is, you observed a number of places where the pipe was either exposed or almost exposed?

A. Yes.

Q. Now, do you know, as a matter of common knowledge, that down here in this territory, some months or so ago, they had what is known as a flood?

A. Yes.

Q. And do you know whether the soil down here in this territory is very susceptible to washing; that is, washing out into gulleys, and so on?

A. I would judge so.

Q. Now, after a flood you would naturally expect the flood waters to run down into the low places, wouldn't you?

[fols. 1384-1404] A. Yes.

Q. And if it was an exceptionally heavy rain you would expect it to remove quite a lot of dirt in the water channel, wouldn't you?

A. Yes, it would erode.

Q. And the low places along this line would be the places where the hot spots would occur?

A. I might say in places observed by me where the water had eroded the earth from around the pipes, the pipes were in better condition than in some other places.

Q. What other places?

A. In places where the land was more or less flat, and the water had stood instead of being drained off.

Q. That is, the pipe was in worse condition where the water had stood around it than where the flow of the water had been continuous along the water channel?

A. Yes, most of those draws are dry arroyos, and water only courses through them after heavy rains, and runs down rapidly.

Q. Now, so where you observed the pipe was where the water had either stood around it or where the pipe had been exposed by action of the elements; is that correct?

A. Yes.

* * * * * * *

[fol. 1405] Whereupon the witness A. J. NEFF, being by the Commission first duly sworn, on oath, testified as follows:

Direct examination.

By Mr. Lange:

Q. State your name.

A. A. J. Neff.

Q. You reside in Laredo, Mr. Neff?

A. Yes.

Q. Mr. Neff, I will ask you whether or not at the time your services were engaged by the City of Laredo in connection with the appraisal of these properties of the Texas Border Gas Company, and South Texas Gas Company, you called at the gas company's office with reference to giving you data upon which to base that appraisal?

A. I did so call on them.

Q. Did you get any maps from them at that time?

A. I did.

Q. Reflecting or showing the place and condition of pipe line or their ages?

A. In the local gas office in looking through their drawings to indicate anything that would reflect the time, or anything I could find to give me information on the subject, I located a map that showed all their lines, this north and south Laredo lines, and their transmission lines, and indi-

[fol. 1406] cated the year that those lines went in. They had only the one map and would not give it to me, but they allowed me to take it and make a copy of it, and I have made two copies of it.

Q. Is that a copy of it there?

A. This is a copy of their map showing those dates of construction.

Q. Indicate on this map, first the section of transmission lines of South Texas Gas Company from Laredo to Pescadito Junction.

A. He had one notation with arrows pointing from Aguilares to Laredo, 8 inch line, 1910.

Q. 1910?

A. It shows that this line from this point here——

Q. From Laredo to where?

A. From Laredo to Reiser Field.

Q. It shows what year?

A. 1910.

Q. All right, go ahead.

A. Then beneath that line it has a section down here shown as a 12 inch line. That is from the gate station at Laredo, it shows a 12 inch line, 1925.

Q. Is that along the transmission line from Laredo towards Pescadito?

A. Yes, towards Pescadito.

[fol. 1407] Q. Is there any other year indicated?

A. Then they have a line from the check meter at Pescadito to Aguilares, 8 inch line, 1922.

Q. All right.

A. Then this line from Augilares to Carolina-Tex, 6 inch line, it shows 1923, and the line from Aguilares to Mirando and Oilton, it did not go to Oilton, but it showed a 4 inch line, 1922, and the line from Pescadito to Jennings Field was shown to be a 6 inch line, 1916, and down at—I do not know just what point, but somewhere along on this line here——

Q. What line is that?

A. That is the Jennings line between Jennings and Pescadito, they show there a 4 inch line to a well off this way somewhere.

Commissioner Thompson: Off which way?

A. In a northeasterly direction, about 4 miles, I believe, it looks like. A 4 inch line put in in 1922, and out in 1923, and that is all the notations we have on that map. Well, the north and south Laredo lines; the one south of the City was marked 4 inch, 1912, and the one north of the City on the river was marked 4 inch, 1912. Those were the notations I got.

Q. Was that map furnished to you by the gas company on your request, to work out your appraisal?

A. It was.

Q. Is that a correct copy of the map furnished to you?

[fol. 1408] A. It is as correct as I could make it.

Q. We desire to introduce this map in evidence.

Commissioner Thompson: It will be received and marked Exhibit "I".

Q. Now, Mr. Neff, at the time you were inquiring of the gas company as to data on which to make your appraisal was a map furnished to you showing the transmission line of South Texas Gas Company, Pescadito to Jennings Junction?

A. Yes, an inventory map was furnished to me on that.

Q. Do you have such map available, or a copy of it?

A. Yes, I have the map they furnished to me.

Q. Did that map show any junction at Jennings Field check meter with the transmission lines shown on this map as checkered in green and red; any physical connection?

A. The map, as I remember, was dated March, 1931, and it does not show a connection at that point.

Q. No physical connection?

A. No, sir.

Q. Do you have that map?

A. Yes.

Q. May we see it?

A. Yes. This is the 6 inch main transmission line from Jennings gas field to Pescadito Junction, date of inventory March 12, 1931; engineering department San Antonio, Texas.

[fol. 1409] Q. Was that map furnished to you by the gas company?

A. At Houston, yes.

Q. Now, refer on that map to the place which shows the southeast end of the Pescadito line.

A. Sheet Number 1 shows the Jennings end of the line.

Q. Will you point on the map where the end of that line is, and make a mark.

A. The line is shown with one gathering line going out to Jennings No. 4, which is the zero point on that inventory map. And there is a circle there which is a detail showing their gathering lines, and the line to Roma, and the detail shows no connection.

Q. No connection where?

A. No connection between the Jennings to Laredo line; the line from Bruni to Jennings is 10 inch, and to Roma is 12 inch.

Q. Does that show any physical connection between the line from Jennings to Roma, and that from Jennings to Pescadito?

A. The map shows no such connection.

Q. Did you also have another map showing no physical connections of those two transmission lines?

A. I do.

Q. We want to introduce this map he has just been testifying about.

Commissioner Thompson: It will be received and marked Exhibit "J".

[fols. 1410-1459] Q. In order to get the record correct, Mr. Neff, does that map show any physical connection between the transmission line from Pescadito to Jennings Junction marked on this map in red with the transmission line checkered in green and red on the map from Jennings Junction to Jim Hogg?

A. The detail shows there was no connection.

Q. No physical connection?

Commissioner Thompson: This was map "J" you are now referring to?

A. Yes.

* * * * * * *

[fol. 1460] Whereupon the witness LEON O. LEWIS, being by the Commission first duly sworn, testified as follows:

Direct examination.

By Mr. Lange:

Q. State your name, age and residence, Mr. Lewis.

A. My name is Leon O. Lewis. I am 29 years of age, and reside at the present time in San Antonio.

Q. What is your present occupation, Mr. Lewis?

A. Public accounting.

Q. Have you prepared and can you submit to the Commission a brief statement showing your qualifications, and experience, in that line of work?

A. Yes, I have that. "I am a graduate of Clarendon High School of Clarendon, Texas, having finished that school in

1919. I attended Clarendon College for one year and in [fol. 1461] September, 1920, accepted a position in the First National Bank of Clarendon, Texas, where I was employed for five years. On the first day of January, 1926, I resigned my position as assistant cashier of that bank and enrolled in the Business Administration School of the University of Texas.

"During the time I was in the University I had a part time job keeping books for a tire concern in Austin, and during one summer was connected with the liquidation division of the State Banking Department. I took every accounting course offered by the University of Texas, and in May, 1927, passed the examination given by the State Board of Public Accountancy of Texas and was licensed to practice as a Certified Public Accountant. In June, 1928, I was graduated from the University of Texas, receiving the degree of Bachelor of Business Administration, and accepted a position as a member of the staff of Rodgers, Smith & Company, Certified Public Accountants of San Antonio, Texas.

"I was transferred to the San Angelo Office of that firm, and in May, 1929, was made manager of the San Angelo office. At that time I had direct supervision of a staff of twenty men, and my work covered audits and investigations of practically every type of industry, including oil and gas properties located in West Texas.

"In June, 1931, I was transferred back to the San Antonio office and since that time have been engaged solely upon investigations of gas utilities. In addition to this en- [fol. 1462] gagement, I was in active charge of the accounting investigation of Lone Star Gas Company, which work was undertaken by our company for the Texas Railroad Commission and the Oklahoma Utilities Commission. This engagement covered a five year period of Lone Star Gas Company's operations in Oklahoma and Texas, and a determination of historical costs of all its producing and transmission properties acquired since its organization in 1909."

Q. Mr. Lewis, were you engaged by Mr. Neff in the year 1931 to continue the work of auditing the books of the Texas Border Gas Company, and South Texas Gas Company, connecting on to where Mr. Kinney finished his part of the work.

A. My company was engaged by Mr. Neff some time during 1931. I do not know the exact date, and Mr. Kinney was assigned the engagement as to the old records, and I was assigned to check primarily a report which had been made by the company to the City. That was my first connection, to check that report for the year ending February 28, 1931.

Q. Did you, in connection with that work, have occasion to audit the books of the Texas Border Gas Company and South Texas Gas Company for the period ending April 10, 1928 to June 30, 1931?

Mr. Coates: Was that an audit or an examination?

A. Both. The period that the audit was actually made, began on February 28, 1930.

[fol. 1463] Q. And covered what period?

A. Covering first the year ended February 28, 1931. During the course of that examination it was decided to supplement that audit with one showing the operation for the year ended June 30, 1931. Then in the summer of this year, about the 1st of August, I believe, I was assigned the further engagement of auditing the operations of the two companies in question for the year ended July 31, 1932.

Q. What portion of that work comprised the detailed audit?

A. I should say that the primary objective of our investigation was for the purpose of establishing the operating revenues and expenses and the audit in that connection is detailed. In addition to that we have taken from the books, the book costs of the company's property as shown by the books. We did not make a detailed verification of those costs.

Q. Did you, in connection with that first assignment, prepare the exhibit introduced this morning as Exhibit "E," and identified by Mr. Neff, covering the portion of the work which he did and also showing the subsequent portion of the work which you did?

A. That was not all done under the first engagement, but the first engagement and the latter one together, we have brought these book costs down to July 31, 1932.

Q. Is the copy of that exhibit you have before you, is that [fols. 1464-1474] a copy of that exhibit "E"?

A. It is.

* * * * * * *

[fol. 1475] Q. Mr. Lewis, there was also introduced this morning exhibit "H", identified by Mr. Kinney, a portion of which was prepared by him, and a portion of which auditing work was done by you. Is the exhibit you have before you the one to which I refer?

A. Yes.

Q. Referring to the first page of the exhibit, comparative statement of earnings of Border Gas Company, Texas Border Gas Company and South Texas Gas Company for a 7 year period ended December 31, 1931; in order to be in consecutive order, strike that, and we will take page 2 first. [fol. 1476] That shows Border Gas Company statement of earnings from January 1, 1911, to December 31, 1924. Did you prepare any portion or compute any portion of that schedule?

A. I prepared the schedule from figures supplied by Mr. Kinney as he testified this morning.

Q. During the entire period?

A. Yes, on page 2.

Q. You did not audit the books of the company for any portion of that?

A. No sir.

Q. Then turning back to page 1, Border Gas Company, Texas Border Gas Company and South Texas Gas Company, comparative statement of earnings for the 7 year period ended December 31, 1931, did you compute these figures from the books of the company?

A. Yes.

Q. Does page 1 reflect the operating revenues, first, of the Border Gas Company for the years 1925, 1926 and 1927, and then Border Gas Company for the period up to April 10, 1928, and Texas Border Gas Company and South Texas Gas Company for the period up to December 31, 1928, and then Texas Border Gas Company and South Texas Gas Company for the three years, 1929, 1930 and 1931, showing the total operating revenues of those companies each year?

A. That is correct.

[fol. 1477] Q. As per the company's books?

A. Yes. Well, there have been some adjustments made in the years 1930 and 1931, and I do not recall whether any were made in 1929 or not.

Q. Is that the notation at the bottom of the page?

A. Yes. I have eliminated from this exhibit the operation of the Monterrey line so that it might be a comparative statement of the identical properties throughout the period shown.

Q. You also show the operating expenses of the companies named for the period from 1925 through 1931, and the totals of each. Were those figures taken from the company's books?

A. Yes, with certain adjustments as explained.

Q. And you show the net return before providing for depreciation or federal income tax for each year of the company's operation?

A. That is correct.

Q. And those totals were computed from the company's books with the adjustments you just referred to?

A. Yes, the first three years, the 1925 and 1926 and 1927 were prepared by Mr. Kinney, and he furnished me the figures for the period from January 1st to April 10, 1928, which I consolidated with the remaining figures for that period, and the last three years represent the consolidated earnings of Texas Border Gas Company and South Texas [fol. 1478] Gas Company, which I prepared.

Q. For what period as shown on this exhibit did you make a detailed audit; is any portion of this period covered by a detailed audit?

A. We made a detailed audit of operations from February 28, 1930, through July 31, 1932, and we made some analysis of the operating accounts from April 10, 1928, to February, 1931, but it was not a detailed audit.

Q. Now, returning to page 3 of the exhibit, Texas Border Gas Company, statement of earnings, April 28th to December 31, 1931, showing the operating revenues less operating expenses, and net return on invested capital before providing for depreciation for the period beginning April 10, 1928, through December 31, 1931. Were those figures reflected in the company's books or did you make the computations from figures reflected in the company's books?

A. Yes, I prepared that from my investigation of the company's books.

Q. And page 4 shows a similar statement of the earnings of South Texas Gas Company for the same period?

A. Yes.

Q. And was computed on the basis of the gas purchases at 5 cents per thousand cubic feet?

A. That is right.

Q. In connection with that exhibit, Mr. Lewis, there is [fol. 1479] attached a chart showing consolidated gas sales and operating expense of Border Gas Company, South Texas Gas Company and Texas Border Gas Company, expressed relatively in the year 1925, at 100. Did you prepare that chart?

A. Yes, I prepared it.

Q. Based on what figures are taken from what?

A. It is based on the foregoing exhibits, or, I should say, the succeeding pages of this exhibit.

Q. Will you briefly explain to the Commission what that chart discloses?

A. That chart was designed to indicate the trends of the general expenses, transmission and distribution operations, and transmission and distribution system maintenance, and the gas sales, and I have used the year 1925 as 100 in all instances. In other words, the gas sale line which is a solid line.

Q. That is the solid line appearing on the chart?

A. Yes, taking the year 1925 as 100 shows each year's gas sales in dollars expressed in relation to the gas sales in 1925. In other words, each year is the per cent of 1925. That same explanation is true of the other three lines appearing on this chart. The general expense is expressed in each year in relative terms to the general expenses in 1925.

Q. Mr. Lewis, is it or not a significant fact in connection [fol. 1480] with this chart that the three items, transmission and distribution operation, transmission and distribution maintenance, and gas sales all show a decline specially through the latter part of 1931 and through the 1932 period, as against the incline of the general expense line?

A. That is correct.

Commissioner Thompson: Have you made similar charts for other lines of business or other utilities?

A. Yes, I have made such charts.

Commissioner Thompson: What is the general experience as to that general expense line?

A. The general trend of business for the last two years—now, you realize I am saying this from a very limited experience.

Commissioner Thompson: Yes, just your experience.

A. The revenues——

Commissioner Thompson: I know that they all go down, but explain this expense, how does it go. How does that curve generally run the past few years; up or down?

A. It is down, but not in proportion to revenues.

Commissioner Thompson: Expenses have been going down?

A. Yes.

By Mr. Lange:

Q. This chart, however, reflects the contrary with refer-
[fol. 1481] ence to the end of 1931 and the period in 1932?

A. There is a relative increase for the year 1931, and the year ended July 31, 1932, in general expense.

Q. As against a decline in transmission and distribution operation expense and transmission and distribution maintenance expense and gas sales?

A. That is correct.

Commissioner Thompson: We will take a recess now until 8:00 P. M.

Whereupon a recess was taken at 6:00 o'clock P. M., until 8:00 o'clock P. M.

Whereupon the witness Leon O. Lewis resumed the stand for further direct examination by Mr. Lange:

Q. Mr. Lewis, you stated this afternoon that you were engaged by the City of Laredo in June, I think, of this year, to make an audit of the operations of the Texas Border Gas Company and South Texas Gas Company to be used in this rate case?

A. I was.

Q. And did you make such an audit?

A. I did.

Q. For what period?

A. The audit I made was for the 12 months ended July 31, 1931.

[fols. 1482-1486] Q. And prior to that time you had made a detailed audit covering what period prior to that?

A. Prior to that we had made detailed audit of operations covering the 12 months ended February 28, 1931, and June 30, 1930. I might say in connection with that that while I was in Houston on this last work the city requested me to get operating figures to fill in the gap between February 28, 1931, and April 10, 1928, and I have done that.

Q. I will ask you whether, in connection with that work, you have prepared an exhibit, and whether this is the exhibit which you prepared?

A. Yes, this is the exhibit which I have prepared.

Q. We desire to introduce that.

Commissioner Thompson: It will be received and marked Exhibit "L".

Q. Mr. Lewis, turn to page 1 of that exhibit, South Texas Gas Company and Texas Border Gas Company, consolidated statement of earnings from operations within the city limits of Laredo for the years ending June 30, 1929, 1930 and 1931, and July 31, 1932. The statement appearing on that page, or the figures appearing on that page, show first the operating revenues, gas sales, forfeited discounts, and other operating revenues for the calendar years ending June 30, 1929, 1930 and 1931, and for the year ended July 31, 1932.

* * * * * * *

[fol. 1487] Q. Now, in connection with the detailed audit that you made of these two companies, Mr. Lewis, I will ask you whether you obtained, or whether you made an effort to and did obtain the voucher numbers showing, or the vouchers of the gas company, showing from what particular gas wells gas was purchased by South Texas Gas Company that was delivered to Laredo?

A. I have in my papers an analysis of the——

Q. During the 12 months period ended July 31, 1932?

[fol. 1488] A. I have in my papers a summary analysis for the invoices for gas that were rendered by the South Texas Production Company to the South Texas Gas Company. Those invoices indicate merely that it was delivered to the Monterrey line or the Laredo line.

Q. Does each invoice indicate specifically where the gas was delivered to each line?

A. Yes, it indicates from what well it was taken, and to what line it was delivered; that is, either to the Laredo district lines or to the Monterrey line.

Q. Did you make a careful check to ascertain all such statements during that 12 months period?

A. The summary statement I have is a summary of all invoices for the gas purchases, and ties into a general account for gas purchased.

Q. For the period designated; that is, ended July 31, 1932?

A. Yes.

Q. Do you have that summary available?

A. Yes, I have it.

Q. Do those statements which you got from the gas company's records give the name and description of the well from which the gas was taken by name?

A. Yes, it gives the name of the well.

Q. Will you give us the names of each of those as you found them.

[fol. 1489] A. Those invoices show——

Q. Those that show gas delivered to the Laredo line.

A. Those invoices show the gas delivered to the Killam four inch line, which apparently serves Mirando City, Bruni and Oilton under one section, and the gas deliveries to the Hebbronville line in another section, and the gas delivered to the Laredo line in a third section, and gas deliveries to the Monterrey line in a fourth section.

Q. All right, now I want the detail of the gas delivered to the Laredo line.

A. Yes. Do you want the owners of the wells?

Q. Yes, the total description as reflected by the company's records.

A. You do not care for the volume of gas delivered from each well, do you?

Q. You might give us that also; while that is not exactly pertinent to the inquiry, we want to show where all the gas delivered to the Laredo area, from what particular well it was taken from.

Commissioner Thompson: As a matter of public interest?

Q. No sir, particularly it is to show with reference to this triangle; we are going to show that no gas came around that way. The volume is not really necessary; give us the first one, Mr. Lewis.

[fol. 1490] A. Southern Gas Utilities, A. C. DeLaGarza No. 1.

Q. All right.

A. Southern Gas Utilities, Charles Webster No. 1.
Q. All right.
A. Snowden-McSweeney, A. C. DeLaGarza No. 1.
Q. All right.
A. Foster Barnsley, A. C. DeLaGarza No. 2.
Q. All right.
A. Roark-Simpson-Sangster, Roark-Simpson No. 1.
Q. All right.
A. George S. Marshall, Charles Webster No. 1.
Q. All right.
A. Associated Oil Company, Charles Webster F-1.
Q. All right.
A. Morgan-Gibble-Sterling, Morgan-Gibble No. 1.
Q. All right.
A. South Texas Production Company, Cuellar Brothers No. 1.
Q. All right.
A. Washington-Texas Oil & Gas Company, Foster-Barnsley No. 1.
Q. That is all one name?
A. Washington Oil & Gas Company is the owner of the well, I suppose, and Foster Barnsley is the name of the well.
Q. All right.
A. Southern Gas Utilities, A. C. DeLaGarza No. 2.
Q. All right.
[fol. 1491] A. E. A. Sterling, DeLaGarza No. 1.
Q. All right.
A. I believe that is all the deliveries shown to the Laredo line.
Q. During the 12 months period ended July 31, 1932?
A. That is correct.
Q. Now, give us a list of those wells making delivery to the Roma-Monterrey line.

Commissioner Thompson: What bearing does that have on Laredo?

Q. It has this, if the Commission please: They have attempted to saddle this gathering line on to Laredo, when it is only used for deliveries to Roma.

Commissioner Thompson: All right, go ahead.

A. You want the invoice showing deliveries to the Roma-Monterrey line?
Q. That is right.

A. South Texas Production Company, J. D. Jennings No. 4.
Q. All right.
A. South Texas Production Company, J. D. Jennings No. 6.
Q. All right.
A. South Texas Production Company, Humble Martinez No. 1.
Q. All right.
A. Southern Gas Utilities, R. Hinnant No. 4.
[fol. 1492] Q. All right.
A. United Production Company, F. G. Martinez No. 3.
Q. All right.
A. United Production Corporation, F. G. Martinez No. 4.
Q. All right.
A. United Production Company, F. G. Martinez No. 5.
Q. All right.
A. Nordham and Morris, DeLosSantos No. 2.
Q. All right.
A. Nordham and Morris, DeLosSantos No. 1.
Q. All right.
A. Nordham and Morris, E. B. DeLosSantos No. 2.
Q. All right.
A. Nordham and Morris, DeLosSantos No. 3.
Q. All right.
A. H. H. Coffield, S. Bustamente No. 1.
Q. All right.
A. South Texas Production Company, Marie B. Guittierrez No. 1.
Q. All right.
A. South Texas Production Company, J. D. Jennings No. 1.
Q. All right.
A. South Texas Production Company, J. D. Jennings No. 2.
Q. All right.
A. South Texas Production Company, J. D. Jennings No. 5.
[fol. 1493] Q. All right.
A. South Texas Production Company, Cuellar Brothers No. 1.
Q. All right.
A. And there was South Texas Production Company, J. D. Jennings No. 10. I do not believe there were any deliveries

from No. 10 during that period; there were some deliveries apparently that came through from the Jim Hogg check meter, but I do not know the origin of that gas.

Mr. Coates: You say you do not know the origin of that gas?

A. No. I do not know that there was any that came through there; let me look.

By Mr. Lange:

Q. You did not make any check of the Southern Gas?

A. No, some gas came through there, but I do not know the origin; that was delivered to the Monterrey line.

Q. It was confined to South Texas Gas Company's purchases during that 12 months period?

A. That is right.

Q. Mr. Lewis, in connection with Exhibit "L", or rather appearing in Exhibit "L" at page 10 of the exhibit, South Texas Gas Company and Texas Border Gas Company summary of questionable items contained in the consolidated statement of earnings from operations within the city limits of Laredo for the years ending June 30, 1929, 1930, 1931 and [fol. 1494] the year ended July 31, 1932, then on pages 11 and 12, it shows separately South Texas Gas Company from Texas Border Gas Company as to those questionable items. The summary reflected on page 10 is the total of those reflected on pages 11 and 12?

A. That is correct.

Q. Now, how far back from July 31, 1932, does your detailed audit go; does it include the entire period beginning June 31, 1929?

A. No, the detailed audit is not in these statements; you might say it started July 1, 1930. There was some detail back of that, back to February, 1930, but inasmuch as we would not have a complete year there, some of those adjustments were not made.

Commissioner Thompson: Where you say "questionable items" what do you mean by questionable?

A. That is items that I was not sure in my mind as to the support I had for; items that was requested by the City to show separately, that they might be brought to the attention of the Commission.

Commissioner Thompson: You did not know just what to do with them?

A. Well, they are subject to some controversy, apparently.

Mr. Lange: If the Commission please, we directed the [fol. 1495] auditor in connection with that particular phase of the work to prepare for us figures as to a certain character of items, and we are frank to say that whether or not we are able to specifically tie them down, we do not know. We attempted to rivet them down as well as we could, but I do not know whether the record discloses it or not, but the City of Laredo would be unable to bear this financial burden, and we might not be able to bear it all the way through, but we have done the best we could. I do believe that with additional auditing and expense, it would have entailed a considerable expense, but we could have pared out a considerable number of items, but we had to be confined within certain limits which we could not go beyond.

Commissioner Thompson: I noted management fees here, and loss on bad debts and advertising. Do you question those items?

Mr. Lange: Yes sir, we do.

By Mr. Lange:

Q. Mr. Lewis, when were those management fees first incurred, so far as the records show?

A. As I stated, the first work I did started with the date of April 10, 1928, at the time South Texas Gas Company acquired these properties from the old Border Gas Company. Sometime later in the year 1928, I think in October, they entered into a management feet with the United Gas Company to pay a management fee of 2 and one-half per [fol. 1496] cent of the gross revenues. Now, that contract remained in effect until June, 1930, at which time they changed, to a certain extent, on the charges of that management fee. The reason I set that item out is because I had no support of those items other than the charges themselves, and inasmuch as they were paid to the holding company I had no way of knowing, without going into the holding company's records, whether that represented a legitimate operating expense, or was in fact a distribution of profit.

Q. Now, turning to page 9 of the exhibit, under operating expense, take that item of general expense. Do you have a detailed audit of that particular item for the year ending July 31, 1932?

A. Do you refer to the item of $20,122.54, General Office and General Expense?

Q. I wanted—well, we will take that one first.

A. Do you want the classification of the items that make up that general expense?

Q. Yes.

A. That is the Texas Border Gas Company.

Q. That is it.

A. Yes, I have the classification as shown by the company's books. Shall I read the detail?

Q. Yes.

A. Travelling expense, $77.01; Law expense, $600.00; [fol. 1497] Fire Insurance, $248.88.

Q. I just wanted the items referring to the managing fee.

A. Did you want to know the amount of the management fee charged to the Texas Border Gas Company?

Q. Yes.

A. You will find that item on page 12 of the exhibit in the fourth section, the year ended July 31, 1932, management fees charged to general expense, total $1785.98.

Q. The amount allocated to Laredo is what?

A. 72.17 per cent, or $1288.94. The latter figure is the amount included on page 1 of the exhibit under general expense.

Q. I will ask you how you arrived at this per cent allocation?

A. The general expense of both companies I allocated on the basis of gross revenues.

Q. Now, the next item on page 12, under the year ended July 31, 1932, is Loss on Bad Debts; that comes out of the Customers Expense item; is that correct?

A. That amount is included in the foregoing exhibit under the classification of Customers Expense.

Q. And showing a total of $2773.64 allocated to Laredo for that period?

A. That is right.

[fol. 1498] Q. And the next item is Loss on Bad Debts coming under the general expense item, of which $100.83 is allocated to Laredo?

A. That is right.

Mr. Coates: Mr. Lange, it will make the record more compact if you will have him state the basis of his allocation.

Q. Yes, if you will do that.

A. It might make it a little clearer if I do it by companies separately because I did not use the same basis for both companies. Referring to the South Texas Gas Company, gas purchases, of course, is not an allocated item; that is a direct item. Transmission system operations—would you like to have the percentages?

Mr. Coates: Yes, the basis of the allocation and the allocated percentages.

A. It will be a little different percentage each year.

Mr. Coates: Do you mean a different method of allocation?

A. No, the method is the same, but the percentages will vary slightly from year to year. I will give you the year ending July 31, 1932.

Mr. Coates: Yes, that is the one we are particularly concerned with.

A. South Texas Gas Company, transmission system oper- [fol. 1499] ations, I have allocated on the basis of M. C. F. deliveries allocating to miscellaneous sales, 1.58 per cent; to the Monterrey line 61.30 per cent; to the other towns, I have called it, 3.14 per cent; to Laredo, outside the city limits, 6.01 per cent, and to the total inside the city of Laredo—no, those are the wrong percentages. Let's start over. Now, let me go ahead and give these and it will serve another purpose; 27.97 per cent to inside the city of Laredo. Those percentages are the percentages of gross revenue of South Texas Gas Company for the year ended July 31, 1932, and I have used those ratios instead of transmission system operations, as I stated; I have used this percentage for distributing the general expense.

Mr. Coates: I don't like to have to cut in on you, but neither I nor Mr. Womack here understand you. You changed on us in the middle there.

A. I realize that.

Mr. Coates: My notes show that you allocated general expense on the basis of gross revenue.

A. That's right.

Mr. Coates: And you allocated transmission system maintenance and operations expense on the basis of M. C. F. deliveries?

A. That is right.

Mr. Coates: And were the percentages you gave gross [fols. 1500-1507] revenues or M. C. F. deliveries?

A. Gross revenues. That is the basis I used for distributing the general expense.

Mr. Coates: The expense you have just given are gross revenues?

A. Yes, and that was used in allocating the general expense of South Texas Gas Company.

Mr. Coates: Are you about to give the percentages allocated on M. C. F. deliveries?

A. Yes. Miscellaneous industrial sales or right-of-way sales, 1.57 per cent; Monterrey line, 71.76 per cent; the other towns, 1.75 per cent; Laredo outside the city limits, 5.73 per cent; inside the city limits of Laredo, 19.19 per cent.

Mr. Coates: Now, you have allocated both transmission system maintenance and operations on this M. C. F. basis?

A. That is correct. The taxes I have allocated in all cases, or in case of local property taxes I have allocated direct; in the case of gross production taxes I have allocated on the basis of gross gas sales. The franchise tax I have allocated on the basis of revenue.

* * * * * * *

[fol. 1508] Q. Mr. Lewis, with reference to the rate of depreciation, what do the company's books reflect as to the depreciation shown for the year ending July 31, 1932; what character of depreciation is set up, or what rate?

A. The company during that period set up a retirement reserve each month. That reserve is set up in round figures, and, as I understand it, is supposed to take care of the retirements as they occur. As to the computation of [fol. 1509] that reserve, I am not informed.

Q. Do you know whether that reserve is set up to take care of any specific property or specifically the properties of South Texas Gas Company and Texas Border Gas Company, the physical properties?

A. The amounts set up on the Texas Border Gas Company's books and the South Texas books would be supposed to take care of the retirement of those two companies.

Q. Is it based on any particular total valuation of properties or total sum of the properties reflected by the books as owned by these two companies for that period?

A. As I stated, I do not know how it is computed. It is computed, I understand, by the United Gas Public Service Company, and I did not go into their records, but it has no relation to the fixed assets, or fixed capital of these two companies, so far as I can learn. I mean there is no particular rate used. It might be $300.00 one month, and $1500.00 the next. It depends on their retirement program, as I understand it.

Q. In your experience as an auditor, on what basis is depreciation usually computed?

A. Do you mean how is it computed by the companies themselves?

Q. With relation to the properties.

A. Ordinarily, depreciation is computed on some per cent by estimating the life of the property and to write that [fol. 1510-1534] property off over that useful life.

Q. In other words, it has some relation to the property of the company involved?

A. Ordinarily. However, in the case of utilities my observation has been that they have not followed any set rules for depreciating property.

Q. No particular set rule. Now then, for the period preceding, for the year ended June 30, 1931, what rate of depreciation was set up by the company?

A. They used the same method.

Q. During the year preceding that, what rate of depreciation was set up?

A. That would be the year ending June 30, 1930, wouldn't it?

Q. Yes.

A. For the year ending June 30, 1930, the company, on the Texas Border Gas Company books, used a rate of 2 per cent of depreciable property until May, 1930, and at that time they changed the policy and started setting up this retirement reserve of even figures. The South Texas Gas Company for that period used the rate of 3 and three-fourths per cent until May, 1930, at which time they went on the retirement theory.

* * * * * * *

[fol. 1535] Testimony of Leon O. Lewis

. . . . . .

A. I have attempted in my statements of operations to set up the operations of the company as reflected by the books with certain adjustments that I thought should be made.

Q. Well, in setting up the reports or exhibit, which have been introduced in evidence in this case, have you been content to set forth, after adjustments for mistakes and inaccuracies what the books show, and let the results speak for themselves?

A. No, I have made some adjustments of items that I thought were not properly contained in the account.

[fol. 1536] Q. And have you used any foresight to arrive at or obtain any predetermined result?

A. No sir, my object has been all the time to establish a correct operating net return, and whether it be large or small, the correct return.

Q. Of course you never have operated a public utility, have you?

A. No sir.

Q. Or a business like this business, of any sort?

A. No sir.

Q. You appear here entirely in the role of an accountant?

A. That's right.

Q. And have you in any respect or anywhere in the exhibit introduced by you attempted to substitute your judgment for the judgment of the managing officials of the company?

A. Well, I have made some adjustments. I do not know whether you would construe that as substituting my judgment.

Mr. Bobbitt: In what respect do you mean he has substituted his judgment for that of the officials with respect to accounting?

Q. With respect to reflecting in summarized form the actual financial transactions of the company as shown by the books.

A. I believe I mentioned last night that I had made some adjustments. Now, as to the interpretation of why I made those adjustments——

[fol. 1537] Q. Now, Mr. Lewis, you understand that every dolar spent in operations is spent to obtain a certain result, don't you?

A. Theoretically, it is.

Q. Or at least the managing officers using their best judgment and foresight, the best of which they are capable, they believed and hoped that each dollar expended would bring back to them a certain result.

Mr. Lange: If the Commission please, that would be substituting his opinion as to what the management had in their mind when they did that.

Commissioner Thompson: They did hope to make a profit; that is the general attitude.

A. I give any man in business the benefit of good intentions, and the hope to make a profit. I do not believe they would just throw money away. Any money he spend- he hopes to get back in some form or another.

Q. Now, in connection with Exhibit "L" you have certain pages in there which you have styled, for lack of a better name, questionable items.

A. That is correct.

Q. Now, is there any doubt in your mind that each item shown under your colection of questionable items was an actual out-of-pocket expenditure, spent where it is shown to be, and expended?

[fol. 1538] A. There is no doubt in my mind but that the two companies in question actually paid these amounts.

Q. And that where a questionable item is shown, as a loss, that it was determined to be a loss after every reasonable ordinary business effort to collect it.

A. You mean in connection with the bad debts?

Q. Yes.

A. The figures I have here are the reserve figures as set up by the company, and from all appearances that reserve is not excessive, and during the year ended July 31, 1932, that reserve was considerably reduced by virtue of charging off items which had their origin in 1929 and 1930, but the figures here are the reserve set up monthly by the company.

Q. Of course where you set up a reserve during the current year for bad debts or anything of that sort, the debts for which that reserve are set up are generally those actually incurred in some previous year, or at some previous

time, and there has been a lapse of time in an effort to collect, and after a reasonable lapse of time it is determined that this amount should be classed as uncollectibles; isn't that correct?

A. That question is so long I did not follow you, Mr. Coates. Would you mind reading that question.

Q. I will change the question. You would not expect all the uncollectibles or bad debts for the period ending July [fol. 1539] 31, 1932, to be determined as at July 31, 1932, would you?

A. No sir, that would be impossible, because the large per cent of those accounts were not even due at that time.

Q. I believe you have already stated, or perhaps only suggested that in connection with page 12 of the Exhibit "L" you gave the most careful attention, there, so far as so-called questionable items are concerned, to the year ended July 31, 1932?

A. Well, the last two years of the exhibit.

Q. The last two years of the exhibit?

A. Yes.

Q. And that a good many, if not all, of the same character of items as you have shown for the period ending in 1931, and the period ending in 1932, likewise appears in the period ending in 1929 and 1930, respectively?

A. I will not say that all of them occurred, but during those two years I note that they included in the payroll set up of these two companies, an amount set up which was paid to the United Gas, and I have not attempted to segregate that amount of payroll because I did not make a detailed investigation of the two years. As to the general office expense prorated there has been a change in the classification and manner of handling these items so that now expenses which would formerly have been charged as general payroll are now under the classification of general office prorated.

[fol. 1540] Q. Is it your understanding that the United Gas System as now set up is composed of the properties formerly owned by a great many separate corporations?

A. Yes, there were quite a number of separate corporations.

Q. And each such separate corporations generally speaking had its own complete operating organization?

A. I cannot testify, Mr. Coates, to any of the other corporations except these two.

Q. And do the accounts and your investigation of the accounts indicate that an attempt has been made to more or less integrate and unify the operations which are capable of integration and unification?

A. The attempt has been and is being made to get all these companies as nearly as possible into one operating unit.

Q. And where each company may have had its own managing or executive officer before, the attempt has been made specially in the last two year period, to have one executive handle in his particular capacity as many companies as possible?

A. That has been done, yes.

Q. And where there may have been separate engineers giving their entire time to one company before, an attempt has been made to have the general engineering department handle as nearly as possible the engineering work for the properties of all the former constituent companies?

[fol. 1541] A. I suppose that is true, Mr. Coates. Of course I do not know anything about the organization of the United Gas Public Service Company, but I do know that company performs services in the way of engineering, and purchasing, and the general office of that company likewise serves South Texas Gas and Texas Border Gas.

Q. That carries on down to the accounting work of the two companies?

A. Yes, the general books of these two companies are kept in the general office in Houston.

Q. And carries on down, for example, through the insurance department; instead of each company placing its own insurance they group that insurance in one department and pay it out in one lump sum, do they not?

A. I don't know. There are charges for insurance that come from the general office, but I do not know the nature of the protection.

Q. That is likewise true of the new business department; they attempt to let one new business department, insofar as it can, and insofar as a general department can handle that work, do a substantial part of it?

A. Yes, there are charges for new business expense which comes on the general office. You understand my testimony in connection with United Gas is my reaction to the things I have seen on these two companies.

[fol. 1542] Q. Do you happen to know whether the salary of the local manager for Texas Border Gas Company; that

is, Mr. Stein, is carried on the general office payroll?

A. I do not know where it is carried. It is not on the Texas Border payroll.

Q. And you assume it is carried——

A. I assume he gets paid, yes.

Q. And a part of the legal expense is carried on the general office payroll?

A. Yes.

Commissioner Thompson: I take it from that question and answer that all the management comes from the management company?

Q. Not necessarily, no sir. These operations have been integrated and a great many services are performed by the general engineering department and accounting department, and insurance department, that were formerly performed by the local and separate companies. You could not transfer all your field operations into the head office. The charges that are made are not fees, but simply allocated expense for such as hire and rent and so forth of those various departments.

Commissioner Thompson: Even the local manager; if he handles half a dozen towns he is prorated?

Q. For instance, Mr. Stein, the local manager here, has [fol. 1543] his salary carried on the general office payroll, and he handles not only Laredo but these outlying towns. The attempt has been made to have one man not only take care of a local situation but to cover as much territory as possible, and of course Mr. Stein's salary is not charged solely to Laredo, but it is prorated among these various towns. Now, in Exhibit "H" on the last page you set up certain curves. You take first your starting point, the year 1925?

A. That is correct.

Q. Why did you select that year?

A. In a chart of this kind, which is purely for relative purposes, it would not matter what year you take. I started with the year 1925 so that I might show on this chart two complete years of operation under the management of the old Border Gas Company of the same properties.

Q. The operations for the size and extent of that business at that time, and likewise the character of the business.

A. Well, the South Texas Gas Company at that time took over the properties formerly operated by the Border Gas Company.

Q. Now, I notice your plain white line shows gas sales; is that in dollars or M. C. F.?

A. That is in dollars.

Q. That is in dollars. Then the next line above that.

A. I mean that represents the relatives in dollars. None [fol. 1544] of the curves are in dollars; they are all in relatives.

Q. Now, the next line above that is the transmission and distribution system maintenance?

A. That is correct.

Q. And that shows that the distribution and transmission system maintenance reached its low ebb, you might say, in 1929?

A. That is correct.

Q. Do you know whether in 1929 the present management of this property was then operating it?

A. I am not sure. I believe these companies went under the present management in May or June, 1930.

Q. Now, the next line above transmission and distribution system maintenance on the chart, shown on the last page of Exhibit "H" is transmission and distribution system operations?

A. That is correct.

Q. Now, for the year 1930 the transmission and distribution system operations expenses are on a distinctly downward trend, are they not?

A. For what period?

Q. For the year of 1931.

A. Yes, distinctly downward.

Q. And that downward trend has been projected in and is still downward into the year 1932?

[fol. 1545] A. That is correct.

Q. On the other hand, for the year 1931, the trend of what you might call general expense is upward, is it not?

A. That is correct.

Q. And just for the purposes of illustration, if you should combine these two curves, general expense and transmission and distribution system operations, one would pretty well offset the other, wouldn't it, for the year 1931 and the year 1932?

A. I would have to compute those figures to know what the exact effect would be. It is an increase in one and a decrease in the other, and it would tend to smooth out the curve if you were to combine them.

Q. Yes. That is on this chart, take the vertical line which you have numbered at the bottom, 1930, and starting with a fixed point on that line your general expense is upward during the year 1931?

A. That is correct.

Q. And at what I would call about a 25 or 30 degree angle from horizontal?

A. Well, I cannot state what I think that angle is; it is something less than 45 degrees, I would say.

Q. Something less than 45 degrees. On the other hand, the transmission and distribution system operations extend downward at an angle of about 45 degrees, doesn't it?

[fol. 1546] A. I do not believe the degree on a chart of this type has any particular meaning, Mr. Coates. You have to combine the two totals of 1925, and get your relative there before you could tell what sort of a curve you would have.

Q. You do not think the angles on this chart have any particular meaning?

A. They might to you, but I cannot look at it that way.

Q. Is setting up this chart your own idea?

A. Not solely; I have seen like charts.

Q. You meant to represent by the angles and the sharpness of the angles shown on here increases in certain expenses and decreases in others, didn't you?

A. I attempted to show the relative positions at these various dates of the revenues and operating expenses.

Q. And this chart at least to one not learned in reading these charts, indicates that the angles of these lines and the way they project themselves are meant to graphically illustrate in one case the increase in general expenses, and in the other case the decrease in transmission and distribution operations?

A. That is correct.

Q. Now, does the fact that this company has been attempting to integrate its operations, and in the process of doing so has carried into its general expense many expenses that were theretofore charged locally, and would be charged [fol. 1547] to transmission and distribution operation, have anything to do with the trend of the general expense and the transmission and distribution operations curves?

A. It might have some effect; I do not know how much.

Q. It might have some effect?

A. I know the accounts have been reclassified, sometimes as often as four and five times a year.

Q. Of course if the transmission and distribution operation expense was to remain relatively stable; that is, on practically a flat line, and the general expense line was to have a distinct trend upwards, that would mean an increase or loading on of general expense, wouldn't it?

A. It might or might not. There might be some project underway which would increase the general expenses, whereas the operations—all expenses do not follow the same trend at all times. For instance, in a bad year you might increase your advertising expense in order to try to get back some of the business you used to have, and your other operating expenses you might curtail in order to try to make some money.

Q. Would you increase that advertising in a bad year to get some business; would you call that a questionable account, Mr. Lewis?

A. You would have to wait and see what the trend would be.

Q. Placing yourself in the place of the managing official, [fol. 1548] and having to use business foresight and judgment, if they thought they could get some more business by advertising and then failed to do so would you say that was a questionable item?

A. It might be questioned in some ways. I would say that a man is justified in taking any means he can to increase his business, if he honestly believes it will help; that is what he is in business for.

Q. Then you would not measure the propriety of the expense by the result it obtained, looking at it from the point of view of hindsight, rather than the point of view of foresight, would you?

A. No, you would assume good intentions at the outset.

Q. But the upward trend of the general expense curves, and the downward trend of the transmission and distribution system operations curves, just looking at these curves as you have set them up graphically, they tend to compensate each other, do they not?

A. If the two expenses were combined I believe that it would represent a fairly straight curve. As I said, I would have to get those figures before I could tell definitely.

Q. Now, Mr. Lewis, with respect to the apportionment of the operating expenses of the South Texas Gas Company. You heard Mr. Womack's testimony, did you not?

A. Yes.

[fol. 1549] Q. And you heard his testimony to the effect that for the purpose of getting a general division of the operating expenses of South Texas Gas Company he divided the expenses first into what he called the Laredo district of the transmission lines, and the Roma or Monterrey district of the transmission lines?

A. That is correct.

Q. And that he made that division of the basis of a computation made by the chief engineer of the company, being the proportion of lineal and three inch equivalent miles to the entire lineal and three inch equivalent miles?

A. That is correct.

Q. And then by that means, having obtained a portion of the total operating expenses for the Laredo division of the transmission system lines, he then went ahead and apportioned those expenses between the various marketing or delivery points of the gas?

A. That is correct.

Q. Now, you have not used the method that Mr. Womack employed?

A. No sir, I have not.

Q. You have taken the operating expense of the South Texas Gas Company as a whole, including both the Laredo division and the Monterrey line, and have applied certain apportionment factors to that operating expense as a whole, have you not?

A. That is correct.

[fol. 1550] Q. And as I recall your testimony, in the case of general expense, you apportioned that on the basis of gross revenues?

A. That is correct.

Q. That is, you gave to what Mr. Womack called the Laredo division, the portion of general expense, which the gross revenues from the sales in the Laredo division bore to the total gross revenues of South Texas Gas Company?

A. That is correct.

Q. And in the same way you gave to the Monterrey line the portion of general expense which the total gross revenues from the delivery of gas to the Monterrey line bore to the total of the gross revenues of the company?

A. Yes.

Q. And in the case of other operating expenses, except taxes, you apportioned the total operating expense of South Texas Gas Company on the basis of M. C. F. deliveries to each marketing point?

A. That is right.

Q. Now, for the purpose—and, of course, the direct expenses, such as the purchase price of gas at five cents, there was no allocation, was there?

A. No, that was direct to the point where the gas was sold with an adjustment for the unaccounted for gas in the transmission lines.

Q. And the taxes were apportioned on the basis shown in the records already?

[fol. 1551] A. Yes.

Q. Now, for the purpose of convenience, let us call the general expense and the operating expense, other than gas, the allocated expenses so you will understand what I mean.

A. You mean by the allocated expense, the general expense and the transmission system operations, and maintenance expense?

Q. Yes, everything except the purchase price of gas and taxes.

A. Yes.

Q. By the way, did you work out your apportionment factor?

A. Yes, I worked them out.

Q. Do they reflect your judgment?

A. Yes.

Q. And solely your judgment?

A. Well, I should not say solely my judgment because I did discuss the matter of allocation with my principals, and others associated with me.

Q. And after such discussion did you make any change in the basis of allocation that you had made before that consultation?

A. I do not believe I worked that out before consulation; it was worked out after we had discussed all angles of it.

Q. Now, Mr. Lewis, the working out of such an apportionment factor would involve certain knowledge of the operations of the company, wouldn't it?

[fol. 1552] A. Yes, it would involve quite a bit of informa-

tion concerning the policies of the company and the general operating conditions.

Q. Of course, on the books of account of the company it is true that these expenses are carried as a whole, and are not allocated?

A. Yes, it would be, I should say, impractical for the company to attempt to make any direct allocation of these expenses on its books.

Q. And this allocation is simply made for the purposes of this case, for the purpose of getting at the operation expenses properly chargeable to inside the city of Laredo?

A. That is correct.

Q. Now, don't you understand that with the exception of the purchase price of gas these allocated expenses would go on and be incurred in a relatively uniform amount, if this utility, the South Texas Gas Company, remained in constant readiness to serve whether it delivered any gas or not?

A. Generally speaking, I would say that the expense would be there, a good part of it, at least, whether they delivered any gas or not.

Q. That is, if they were there ready to serve?

A. If they had their operating personnel surely the operating costs would go on, and the maintenance cost, whether they were actually doing anything or not.

Q. And that allocated expense would not vary in any [fol. 1553] appreciable degree with the extent of the operation?

A. Do you mean by the extent of operations, the deliveries of gas?

Q. Yes.

A. Generally speaking, I should say that it would not be severely changed, but in addition to general theories in this connection, I have studied the past performance and past operations of the company in an effort to get at some factor which was related to the operating and maintenance expense, and I have selected this because it appears to me it bears the closest relationship in this particular case.

Q. Yes, I understand it reflects your honest judgment about it, and I am questioning that judgment, but not in any way reflecting on the efforts that you made to get at a proper basis.

A. The reason I suggested that, Mr. Coates, was because in your questioning you were asking me what would happen if certain conditions held.

Q. I am leading up to a more direct question.

A. All right, I will wait for it.

Q. All right. Now, that allocated expense would not vary appreciably as between a situation where the utility was there ready to serve, but getting no gross revenues, and where it was serving a substantial amount of gas and getting a substantial amount of revenue, would it?

[fol. 1554] A. Are you speaking of the general expense?

Q. I am speaking of what we have styled the allocated expense.

A. Let us talk about one of them at a time. I would understand more about it.

Q. Well, if the utility were there ready to serve, but not serving an M. C. F. of gas I believe you have already stated that the transmission and maintenance expense would go on just the same?

A. Some of it would.

Q. I understood you to say that it would go on in about the same per cent.

A. There might be some increase if they started putting gas through the line. Generally the expense would not be materially more if they were actually putting gas through than if they were ready to put it through.

Q. If the utility were there to serve with a full personnel and ready to turn a valve and deliver gas at any minute it was wanted, but stood there an appreciable time without selling any gas or getting a dollar of revenue, would those general expenses vary to any particular extent?

A. Well, if they were serving no gas they would not have to read any meters.

Q. We are talking about transmission expense and not distribution.

A. Well, there would be no billing, and would be very [fol. 1555] little occasion for any accounting except in connection with the physical properties which would be construction overheads.

Commissioner Thompson: You would not have any rate case in that instance, would you, Mr. Lewis?

A. I hardly think so.

Mr. Bobbitt: As a matter of fact, has that ever happened; isn't that the purest assumption, and an assumption of fact that will probably never exist?

Mr. Coates: I am getting at the relative application of these two methods of apportionment, and that is about the only way I know to illustrate it.

Commissioner Thompson: Go right ahead.

By Mr. Coates:

Q. Now, as I understand you, generally speaking, the allocated expense, that is, the general expense, and the transmission system operations, and maintenance do not vary materially in proportion to the M. C. F. deliveries, or the proportion of revenues obtained from the sale of gas?

A. Generally speaking, they do not, but in the instant case they do vary surprisingly close to the deliveries of gas.

Q. And on the other hand, Mr. Womack has used in this case, as has already been testified to, first the lineal miles of line in the Laredo section as compared to the lineal miles of line in the section from Jennings Field to Roma?

A. That was my understanding of his allocation.

[fol. 1556] Q. And the transmission; that is, the general organization that would have to handle this property, would vary in some appreciable extent in accordance with the lineal miles of line?

A. It would be affected to a certain extent.

Q. Now, the lineal miles of line in the Laredo section are obviously much greater than the lineal miles of line from the Jennings Field to Roma?

A. I do not know those exact distances, Mr. Coates, but I believe there is more lineal miles in the Laredo district.

Q. And, on the other hand, the line from Jennings Field to Roma is much larger in capacity than the average line in the Laredo area?

A. That is my understanding, but, as I stated, I do not know the size or length of those lines.

Q. And, for instance, the number of line walkers, and so forth, you would have to have on a line would vary in proportion to the lineal miles of line, wouldn't it?

A. That is correct.

Q. And, on the other hand, your general maintenance, that is, the cost of your general maintenance on a line,

would vary in proportion both to the lineal mile of line, and the capacity of that line?

A. I do not believe they vary in proportion. They might be influenced by the size and length of the lines, but if you [fol. 1557] had a stated system of a certain size and length, if there were no other factors to consider, your maintenance cost would be the same exactly each year because you have the same system.

Q. But if you have to make repairs, and so on, on Dresser couplings on a 12 inch line, that costs considerably more than a Dresser coupling on a 6 inch line?

A. It would cost more. I do not know whether it would be in proportion to the diameter of the pipe or not.

Q. But the diameter of the pipe would be a material factor in that?

A. I am sure it would.

Q. And a big Dresser coupling would cost more than a little Dresser coupling?

A. I am sure that it would.

Q. And it is those factors, and those variances which you understand Mr. Womack has undertaken to take care of on his factors of lineal and equivalent 3 inch miles?

A. I understand that was his reason for using those per cents. You were speaking of the maintenance expense; now, take a Dresser coupling, there is the expense of hauling that coupling to the place where it was put in, and the labor of the man putting it in, and that time would not be influenced by the item of lineal miles, or the time to put it in.

[fol. 1558] Q. If you had to haul out a big Dresser coupling it would cost more than to haul little ones?

A. It would not be in direct ratio to the size of the pipe.

Q. I understand you to say you have made some studies to show those variances; have you taken into consideration the fact that the Roma line was installed about 1929?

A. Yes, I considered that.

Q. And you would expect that on a new line your maintenance during the first years would be relatively low compared to what it would be in subsequent years?

A. That is correct.

Q. And whereas I think this record amply reflects that the lines in the Laredo section have gotten further along so fan as maintenance is concerned, than the Roma line?

A. That is correct.

Q. Do you attempt to compare the maintenance costs on the Roma line with the Laredo section lines?

A. I had no way of making such comparison because of the fact that the books do not show direct charges for operations, and maintenance, and I did not have time to make such a break down.

Q. Then your apportionment has not been built up on a study of the comparative maintenance between the Laredo section and the Monterrey section?

A. My study has been made on the South Texas Gas [fol. 1559] Company as a whole in determin-g what factors were most closely related.

Q. Now, as I understand it, one of your eliminations from the operating expense of South Texas Gas Company has been the elimination of a certain pipe line rental on the 10 inch line by Jim Hogg Junction down to the Jennings Field?

A. That is correct.

Q. And you have entirely eliminated that from your operating expenses shown in all of your exhibits, have you?

A. Yes, I stated yesterday that that properly should have been left in, and shown as direct to the Monterrey line, but for the purpose of convenience I eliminated it entirely because I considered it had no application to the City of Laredo.

Q. And upon what information was your judgment in that regard based?

A. Well, in the first place in conference with the officials in Houston, and I believe you were present at that time, for, quite a long while I could not even find out where the rented line was.

Q. Didn't you get the impression that we did not know?

A. I do not believe you did know.

Q. I don't believe so either.

A. I know it took me some months to find out where that line was, and when I got a copy of the contract it showed a very vague description, and said it was in Jim Hogg, and [fol. 1560] Zapata Counties, but we did determine the line in green and red checks on this map was the line in question. At the time of the conference I was informed that no gas from that field had come to Laredo, and my analysis of the invoices for the periods that I have my examination did not disclose that any gas delivered in that field

was billed by the South Texas Production Company to the Laredo line. It has all been billed to the Monterrey line, and all the evidence I had pointed to the fact that that line had never been used for serving Laredo, and that was the reason I eliminated it in my set up.

Q. At the conference in Houston weren't you told, in the light of the limited knowledge we had of the situation at that time, that it was probably a standby line for service to Laredo in case of an emergency, and that was about the only reason we could give.

A. I was told that, and also that it probably ranged in length from 5 miles to 75 miles.

Q. I do not believe that is quite the lengths that they gave.

A. I had so many vague reports and no concrete evidence of what it was that it was a little hard to determine.

Q. That was on the occasion of your first investigation of the books?

A. Yes, and as I stated, sometime after that I was furnished with a copy of a contract stating that, I believe, it [fol. 1561] was 12 or 15 miles of pipe line in Jim Hogg and Zapata Counties, so we finally decided that was the line in question.

Q. And I believe that was on the occasion of your first visit to Houston?

A. Yes, it was.

Q. And shortly after the present management of the company had taken over its operations, wasn't it?

A. I believe they had been in there something over a year.

Q. Yes, and you conferred with me and Mr. Strange.

Mr. Lange: I do not believe it is in the record what they mean by "present management". Is that different personnel of the same corporation, or what is referred to by the term "present management"?

Mr. Coates: I think you know, Mr. Lange, this property is now under what is known as Electric Bond and Share management, with practically complete new personnel.

Mr. Lange: Since when? We are not definitely informed about that. We do know there was a corporate entity of Texas Border Gas Company and South Texas Gas Company that took over these properties in 1928, in April, and that corporate entity continues, so far as we know.

Mr. Coates: In all my conversations with you I thought you understood that.

Mr. Lange: So far as the record shows, I believe it is still shown that Texas Border Gas Company and South [fol. 1562] Texas Gas Company are definite corporate entities. It is our understanding that these two entities operated these properties beginning April, 1928.

By Mr. Coates:

Q. All right, Mr. Lewis, now if it should appear that that 12 miles of 10 inch coming down from the Jim Hogg Junction to the Jennings Field was actually used as a standby line, and I mean by "used", that in times of emergency gas was actually gotten through that line for service into Laredo, wouldn't you reconsider the inclusion or the exclusion of that pipe line rental charge?

A. A lot would depend, Mr. Coates, on the conditions under which it was used, and other connections. I am not familiar enough with the physical connections up in the Carolina-Tex field, for instance; I do not know what other sources of supply you have, you know.

Q. You do not question the propriety of a reasonable amount of standby equipment for times of emergency?

Mr. Lange: Isn't that a question for an operating engineer, and not an accountant?

Mr. Coates: He has exercised his judgment in cutting this out.

Commissioner Thompson: The question is proper, as it stands now it looks like it is very properly taken off.

Mr. Coates: As it now stands.

Commissioner Thompson: That is what I said, as it now [fol. 1563] stands.

A. What was the question, Mr. Beck?

(Reporter reads question to witness.)

A. I will say this, Mr. Coates, that I do not know the potential supply of gas in the west Jennings Field, and neither do I know the potential supply of gas in the Carolina-Tex Field, but from the invoices I have seen for the year ended July 31, 1932, there was only one time that gas was taken from the west Jennings Field, marked "Cuellar Camp", on that map.

Mr. Lange: The Commission understands that this is part of the field (indicating on plat).

A. There has been a considerable amount of that gas from that field taken to the Monterrey line. Now, it is my belief that with the Carolina-Tex Field, and, as I said, I am not qualified to testify as to gas reserve, but I am testifying only to the use to which the lines have been put, but I believe there is sufficient gas from my study of the records in the west Jennings Field, and the Carolina-Tex Field to take care of the situation.

Commissioner Thompson: What do you base that on?

A. By virtue of the fact that during the last year there was delivered from the west Jennings Field to Laredo according to the invoices only one delivery of gas which was in August of 1931, and since that time there has been some [fol. 1564] large volume of gas taken from the west Jennings Field to Monterrey. That gas, in case of emergency, could have come to Laredo, and from all appearances that field alone could at this time supply Laredo, and from all indications from the company's books the Carolina-Tex Field could.

Commissioner Thompson: Is it your idea that gas reserves are based on past performance?

A. I know nothing about the gas reserve, but only my study of the books of the company. The entire line from Pescadito to Jennings has been allocated to the Laredo division, and it has not been used to any great extent during the past year, and because of that investment, and the investment in the Carolina-Tex Field, I believe that is sufficient for standby equipment. I do not pretend to know anything about the gas reserve, or how long the gas will last, and I am testifying with those qualifications.

Commissioner Thompson: That point is not in question at all because they are buying the gas.

By Mr. Coates:

Q. My question was perhaps more or less general, but ordinarily in your accounting work and in accordance with correct accounting practice, where you know all of the facts, you do not question the propriety of a reasonable amount of expense for a reasonable amount of standby equipment?

A. As I stated before, I cut that out of the operating [fol. 1565] expense for my own convenience. I am not

questioning that it is a justifiable expense for South Texas Gas Company, but I believe it should be considered as part of the Monterrey line, or as standby equipment for that line, and not Laredo.

Q. And that no charge for that part of the investment should be charged against Laredo?

A. That is my opinion.

Q. Mr. Lewis, from your examination of the records for the purpose of ascertaining whether any deliveries were made to Laredo from east Jennings Field or not, did you make any examination of the primary records in the measurement department?

A. As I stated, all the records I examined in that connection were the invoices from South Texas Production Company to South Texas Gas Company, billing them for the gas, stating the wells it came from, and to what lines it was delivered.

Q. Those were simply what are termed, I believe, intercompany invoices?

A. Yes.

Q. And you did not make any examination of the records in the measurement department of the United?

A. No sir, I did not check any meter readings or compute any gas or pressure basis at all, but accepted the invoices. [fol. 1566] Q. Now, you likewise wholly excluded from the operating expense of South Texas Gas Company any gathering line charge in the Carolina-Tex Filed, didn't you?

A. Yes.

Q. Why did you do that?

A. That is a long history. When the companies were organized, or when South Texas acquired control in 1928, they entered into a contract with South Texas Production Company to take all of the gas that they needed at a rate of 8 cents per thousand cubic feet for industrial gas, and 13 cents per thousand cubic feet for domestic gas, and that contract was later amended specifying that all gas deliveries should be billed at 5 cents per thousand cubic feet.

Q. That is, South Texas Production Company to South Texas Gas Company?

A. That is correct. That amended contract is still in existence, and still operative between the two companies. At the time the Jennings line from Jennings to Roma was built, I presume in 1929, because they started operating it

at the end of that year, they entered into a further contract with the Southern Gas Company to take gas at a rate of 6 cents per thousand cubic feet, and providing for the 1 cent gathering charge from wells controlled by the South Texas Gas Company, I believe.

Q. One cent gathering charge for the Carolina-Tex Field?

A. I do not know whether the contract specified the field [fol. 1567] or not, but that contract has been introduced into the record, I believe, and I do not recall exactly about that.

Mr. Lange: For the Commissioner's information, that contract was introduced at the time the Commissioner was not here.

Commissioner Thompson: I have read the record.

A. Now, at that time, or prior to that time, the South Texas Production Company had been delivering gas in the Carolina-Tex Field to the South Texas Gas Company at the contract rate, and when that contract was entered into the gas in that field was billed from the Southern Gas Company to South Texas Gas Company at 6 cents. That continued until February, 1931, I believe, at which time all gas was billed through the South Texas Production Company, including deliveries from the same field instead of being delivered from the Southern Gas Company at 6 cents, was billed from the South Texas Gas Company at 5 cents, and the 1 cent gethering line charge was paid to the Southern Gas Company.

Q. Well, do you know whether or not at the time gas was being taken from the wells of the Southern Gas Company in the Carolina-Tex Field, that the South Texas Production Company wells in that field had either failed or were practically in a failing condition?

A. No, I do not know anything about the gas reserves.

Q. And do you know whether, since that time, the South- [fol. 1568] ern Gas Company wells which went on the line after the South Texas Production Company wells were taken off, have likewise failed?

A. I am sure it is not the same group of wells that was there in 1928.

Q. And that since that time the wells which have been supplying gas from the Carolina-Tex Filed are South Texas Production Company wells, meaning either wells which the South Texas Production Company owns, or wells of other

people in that field from whom the South Texas Production Company purchases gas?

A. I do not know the ownership of the wells.

Q. But the records do show that no gas has been purchased from the Southern Gas Company in the Carolina-Tex Filed since sometime in 1930, do they not?

A. In February, 1931, I believe.

Q. Since February, 1931?

A. That gas was coming from the same wells in January, for illustration, 1931, when that gas was billed from the South Texas Production Company, and in February, 1931, the same deliveries were billed through—no, I think I went haywire on that.

Q. I am afraid you did, and if you do not know——

A. I do know, but I got twisted up in my case.

Q. But the deliveries for the accounting period ending [fol. 1569] July 31, 1932, have been from wells of the South Texas Production Company in the Carolina-Tex Field?

A. I do not know who owns the wells, but South Texas Production Company has been credited with the gas.

Q. And it is your understanding that the gathering lines in the Carolina-Tex Field are owned by the Southern Gas Company, and are not owned by the South Texas Gas Company, nor included in this appraisal?

A. That is my understanding.

Mr. Lange: They were originally, and have been subsequently deducted.

Mr. Coates: That is something, Mr. Lange, about which you do not know.

Mr. Lange: I am taking the book's explanation.

A. Let me make another explanation as to the elimination of that charge, Mr. Coates. As I stated, prior to the time the Monterrey line came into existence that charge was not in effect either directly or indirectly, and it appears it was the gas they needed for the Monterrey line which made it necessary for them to enter into the contract with Southern Gas Company. Now, at the present time, the Monterrey line is taking practically the same amount of gas from this east Jennings Filed to Monterrey as the South Texas Gas Company is taking from the Carolina-Tex Field. In other words, the gathering system in the west Jennings Field, [fol. 1570] which is included in the appraisal 100 per cent to the Laredo district——

Q. No sir, it is 30 per cent.

A. No, in the west Jennings Field it is 100 per cent, is it not, around Cuellar Camp?

Q. The wells which are connected with the line which leads to Laredo, there are a number of wells in that field, and certain of them are connected so as to serve Laredo, and certain of those wells south of the junction point are connected with the line to Monterrey.

A. I am speaking of the wells west of this connection.

Q. Certain gathering lines are included because they do serve Laredo, and others are not because they serve Monterrey?

A. That section of the transmission line on the lower end of the line is also used for transporting gas to Monterrey. That is the gas that comes from Cuellar No. 1, not only utilizes the South Texas gathering system line there, but they also utilize a section of that transmission line, I understand, about 20,000 feet. Now, it occurs to me that inasmuch as that gathering charge was not in effect until the Monterrey line came into existence, it was needed for that purpose, and if we are to charge them with that gathering charge in the Carolina-Tex Field we should credit them with that gathering charge on the Jennings Field.

[fols. 1571-1579] Q. We will have an operating man on the stand who knows about those connections, and what wells serve what property.

Commissioner Thompson: As a proper accounting proposition, Mr. Lewis, is it your idea that this rental charge should be eliminated, based on the fact that there had been no rental charge until the Monterrey line came into existence?

A. That was one reason, and another was that certain South Texas gas properties are utilized for taking gas to Monterrey now.

Q. And that is the basis for your action in that respect?

A. That is one of the reasons. I think I have covered all of them.

• • • • • • •

[fol. 1580] Q. Now, in connection with Exhibit "L", and in connection with the Texas Border Gas Company statement of earnings shown on pages 6, 7, 8 and 9, you show as the second column on page 9, purporting to be the statement

of earnings for the year ended July 31, 1932, the apportionment of certain expenses to merchandise and jobbing?

A. That is correct.

Q. And included in that an apportionment of certain general expenses?

A. That's right.

Q. Now, is that in accordance with the books of the company?

A. The items shown as merchandise and jobbing expense is in accordance with the company's books.

Q. Is the item of general expense which you show under merchandise and jobbing in accordance with the company's books?

A. No, that is my allocation of the general expense.

Q. That is your allocation of an additional amount of general expense to merchandise and jobbing?

[fol. 1581] A. That is correct.

Q. Which you took out of other accounts and put under merchandise and jobbing?

A. It decreased the percentages that would go in the other columns.

Q. Now, other than the expense which you have taken out and shown here on the second column of page 9, there is other expense and other general expense charged to merchandise and jobbing?

A. I did not understand the question.

Q. I say the expense that you have shown in the second column on page 9 of Exhibit "L" is not the only general expense of the company charged to merchandise and jobbing?

A. You mean on the company books?

Q. Yes, on the company books.

A. You are referring to the item of $15,670.82?

Q. No, I am directing your attention to this: The company sets up on its books under merchandise and jobbing certain expense charges, doesn't it?

A. That is correct.

Q. Now, the charges of $804.90 and $563.95 are not charged to merchandise and jobbing on the company's books, are they?

A. They are not.

Q. But there is charged to merchandise and jobbing on the company's books other general expense in addition to [fol. 1582] and over and above this $804.90 and $563.95?

A. There may be some included in the $15,000 item. I will have to look. Yes, the company has charged to merchandise and jobbing under general expense the sum of $83.72, which is included in the $15,000 item.

Q. Do you know whether or not in addition to the general expense, or rather, in addition to the local expense charged to merchandise and jobbing, the company has made studies for the purpose of ascertaining the amount or what amount of general expense is allocable to merchandise and jobbing?

A. I presume they have made such studies.

Q. And the charges of general expense which it makes to merchandise and jobbing are in accordance with the charges as made by the company?

A. I will say this in that connection, Mr. Coates, that there is no uniformity in that charge. One month an employee might be paid, charged to Customers Expense, and the next month to Merchandise and Jobbing, and it would be hard to determine from their books just what their policy was. They have so many changes in that connection.

Q. Now, that $83.00 does not include District General Expense, does it?

A. I do not know what it includes. I am inclined to believe that is possibly insurance. It was an amount cleared from a clearing account.

[fol. 1583] Q. But you are unable at this time to say whether it includes district generally?

A. I don't think it does.

Q. And you know that there is some district general expense included in merchandise and jobbing expense; do you not?

A. No, I do not know that there is.

Q. Are you able to find out from looking at your working papers?

A. I think I can.

Q. Please do so.

A. Define the term "District general expense"; do you mean by that expense that was cleared from the district clearing account?

Q. And denominated general expense.

A. I do not find any district expense cleared from the district expense clearing account.

Q. And it is your testimony that no such expense is cleared?

A. If I understand your term of district expense, that is my testimony.

Q. But to the extent that you have taken this $804.90, and $563.95 from some other account, and put it under the head of Merchandise and Jobbing, you have varied from the definition of these accounts and charges and expenses as carried by the books of the company, have you not?

A. Yes, and no. In this exhibit I have taken the figures [fol. 1584] on the books of the company as adjusted by me and taken the adjustments I gave you last night, and all these columns to the right are columns of allocation, and you can see I have allocated those amounts to merchandise and jobbing.

Q. Which, on the books of the company and according to the charges allocated by the company, were not allocated to merchandise and jobbing?

A. They were not.

Q. And in that way and to that extent you have substituted your discretion and judgment about it for the discretion and judgment of the officials of the company?

A. It is my opinion that it is a proper allocation in view of the fact that very small amounts of general expense have been charged.

Q. And that represents your judgment about how these expenses ought to be charged, but does not reflect the judgment of the company as reflected by the books?

A. That reflects and represents my judgment. That is all on the books of the company, and I have allocated those amounts to merchandise and jobbing.

Whereupon a recess was taken at 12:00 noon until 2:00 o'clock P. M.

[fol. 1585] Afternoon Session

Mr. Coates: Before noon I made a statement that I now find to be erroneous. The statement was that the wells in the west Jennings Field that were hooked up to serve the Monterrey line going to Roma were all either below the junction point or else connected below the junction point. I asked somebody about that about six months ago, or sometime while we were preparing for the case, and was informed that that was the situation, and that the wells above the junction point were hooked up for service to

Laredo, although you could open a valve and run gas back the other way. I now find that at the present time some of the wells above the junction point at the point marked "Jennings Junction" are serving gas to the Monterrey line. How long that has been going on I do not know.

Mr. Langé: You mean in the west Jennings Field?

Mr. Coates: Yes. I made that statement in the record, and it is wrong.

Commissioner Thompson: That is in conformity with Mr. Lewis' statement?

Mr. Coates: Yes, Mr. Lewis stated there were some wells above that junction point, and I told the Commission that the wells connected above the connection point were not hooked up the serve the Monterrey line, but I am wrong [fols. 1586-1588] about it.

Commissioner Thompson: We are glad to have your statement. Proceed with the cross-examination.

* * * * * * *

[fol. 1589] Q. Mr. Lewis, you were asked with reference to your method of allocation, and in connection with that I will ask you what you found as to your study of the relation between the volume of gas and the operating expenses?

A. That is on the South Texas Gas Company?

[fol. 1590] Q. Yes.

A. I have made a study of the relation between the volume of gas deliveries, and the operating expense of the transmission system for the period April, 1928, up to July, 1932, to determine the unit costs of transporting the gas and from the period from April 10, 1928, to December 31, 1928, there was delivered 882,716 M. cubic feet; the operating expense, for that period, that is the transmission system operating expense, was $4029.93, which results in a unit cost of .4565 cents; for the year 1929 there was delivered the amount of 1,321,888 M. cubic feet of gas. The transmission system operating expense was $6233.18, or a unit cost of .4715 cents. For the year 1930, and I might explain that 1930 is the year that the Roma line began operations, when the volume practically doubled that year, or a little more than doubled, there was transported 2,856,452 M. cubic feet of gas. The transmission system operating expense was $20,-219.78, or a unit cost of .7079 cents. For the year 1931 there was transported and delivered 2,706,030 M. cubic feet of gas. Transmission system operating expense was $19,-

282.40, resulting in a unit cost of .7126 cents. For the year ended July 31, 1932, there was transported 2,335,075 M. cubic feet, and the transmission system operating expense was $16,504.16, or a unit cost of .7068 cents. You will observe from those figures that in the year 1930, when [fol. 1591] the volume practically doubled, or a little more than doubled, that the unit cost instead of decreasing shows an increase from .4715 to .7079, and except for that change there is very little difference in the unit cost. I might also add that the gathering line charge of $13,800.00 per year has been eliminated from these operating expenses, and the gathering charge also has been eliminated in stating the operating costs.

In the case of maintenance I will just give the unit costs from April 10, 1928, up to December 31, 1928, which was .4813 cents. For the year 1929 it was .2914 cents; for 1930, .3162 cents; for 1931 it was .3809 cents, and for the year ended July 31, 1932, it was .3922 cents. I made that study in seeking some relation for the purpose of allocation of expenses, and I found that was the closest relationship I could find.

* * * * * * *

[fol. 1592] Q. Turning to page 11 of Exhibit "L", the questionable items, South Texas Gas Company, the summary and the summary on page 12 of the same exhibit; just turn to page 12 first. Now, for the year ended June 30, 1929, the item of management fees is reflected under general expense, and the amount allocated to Laredo is $5102.95. Did you have a break down of that item for that year?

A. No, there is not any break down. That represents a management fee paid to the operating company under a contract.

Q. Do you know what operating company?

A. I believe the United Gas Company, at that time.

Mr. Coates: Is that the full name or the correct name?

A. I don't know whether it was at that time or not. They have changed their names of the operating companies quite frequently, and I do not know. The contract for this management fee was with the United Gas Company providing for a management fee of 2 and one-half per cent of [fol. 1593] gross revenues. I do not know when United

Gas Public Service Company came into existence, but that 2 and one-half cents contract was in effect until June, 1930.

By Mr. Lange:

Q. Two and one-half per cent of the gross revenues?

A. Yes.

Q. How long was that contract in effect; was that in effect the succeeding year ending June 30, 1930?

A. Yes. It might have terminated in May, 1930. I do not believe in the month of June, 1930, it was operative.

Q. Did your audit show what officers of this company participated in that total sum insofar as their salaries were concerned?

A. I do not know where that money finally went. It was paid in this case by the Texas Border Gas Company to the United Gas Company, and as to the disposition that was made of the amount I am not prepared to testify.

Q. You don't know among how many officials of the company that was prorated?

A. I do not suppose the officials of the company got that. It would go into the revenues of the company.

Q. And then prorated back to each company?

A. There was no proration back so far as I know.

Q. Was it charged back on the basis of the percentage that you just stated?

[fol. 1594] A. I do not believe we understand each other, Mr. Lange.

Q. You said that the amount of $5102.95 was based on a certain per cent of the revenues?

A. No, it is $7075.64 that is based on the gross revenue, and I have allocated 72 per cent of that to Laredo, so that in the prior pages the item of $5102.95 is shown as allocated to the City of Laredo.

Q. And that per cent you think is carried through the year ending June 30, 1930?

A. I can tell you the exact date that contract terminated, either in May or June, 1930, and I believe it was the first of June, 1930.

Q. On what basis were the management fees calculated for the year of June 30, 1931, as appearing on page 12 of the exhibit, the item $2020.56?

A. About that time these companies went under the management of the Electric Bond and Share Company, and

that original contract was cancelled, and a new contract entered into whereby the United Gas Company or the operating company of the group, whatever it was at that time, would prorate to its subsidiary companies the management fee charged to it by the Electric Bond and Share Company on the basis of the revenues of the various companies.

Q. In other words, the larger the amount of the gross revenue realized by any particular company, the manage-
[fol. 1595] ment fee charged to that particular company would be increased proportionately?

A. Well, it would bear that part of the management fee which its gross revenues bore to the gross revenues of the entire group so that if its gross revenues went up and the others remained the same it would increase the proportion that particular company would get.

Q. In other words, based purely on the gross revenues; if the net revenues in any particular period might have been reduced to a minimum, and yet the gross revenues mounted, the management fees would mount with it; that is, the proportionate part that particular company would bear; in other words, the net revenue had no bearing on that management fee that company would bear?

A. No sir.

Q. The net revenue could go down, but if the gross revenues were up the management fee went up?

A. According to the contract the management fee is prorated on the basis of gross revenues. I might add that I have not checked any of the computations of the management fee.

Q. But that is the basis stated in the contract?

A. Yes.

Q. For the year ending July 31, 1932, the management fee is also shown on page 12, $1785.98, of which $1288.94 was allocated to Laredo; on what basis was that figure arrived at?

[fol. 1596] A. That is on the same basis.

Q. Gross revenue?

A. Yes.

Q. Was that same percentage used insofar as both companies were concerned; that is, both the South Texas Gas Company and Texas Border Gas Company?

A. It would not be the same percentage, but it would be the same method.

Q. Turning to page 11 of the exhibit, South Texas Gas Company, for the year ending June 30, 1929, the management fees reflect a total of $3178.98, of which 80.32 per cent is allocated to Laredo, amounting to a total of $2553.32. Is that management fee apportioned to the South Texas Gas Company on the basis of gross revenue?

A. No, that amount comes under the former contract, and was computed on the basis of 2 and one-half per cent of the gross revenues. It is a charge direct from the United Gas Company.

Q. And the same for the year ending June 30, 1930?

A. Yes, with the possible exception of the month of June. I am not sure which of those two months that old contract expired.

Q. And for the year ending June 30, 1931.

A. That amount is computed in the same way I stated in the case of Texas Border Gas Company. It is a pro-[fol. 1597] portion of the management fee charged by Electric Bond and Share Company which the South Texas Gas Company revenues would bear to the total gross revenues of the United group.

Q. And that also obtains for the year ending July 31, 1932?

A. That is right.

* * * * * * *

By Mr. Lange:

Q. What was the rate of depreciation set up by South Texas Gas Company's books as of April 10, 1928?

[fols. 1598-1600] A. What was the rate set up at that date?

Q. Yes.

A. I don't know.

Q. For that year.

A. You mean for the year?

Q. For the period.

A. For the period April 10, 1928, to December 31, 1928?

Q. Yes.

Mr. Coates: Hasn't that been given before; hasn't that already been gone over, Mr. Lange?

Mr. Lange: Not as far back as April, 1928, I don't believe.

Mr. Coates: All right.

A. The Texas Border Gas Company for that period computed depreciation at the rate of 2 per cent on the depreciable properties.

Q. For the distribution system; what did the South Texas Gas Company do?

A. They used a rate of 3 and three-fourths per cent.

. . . . . .

[fol. 1601] Testimony of W. W. Stein

Direct examination.

By Mr. Lange:

Q. Will you please state your name.

A. W. W. Stein.

Q. Where do you live, Mr. Stein?

A. Laredo.

Q. What is your present occupation?

A. District manager for United Gas Public Service Company.

Q. How long have you been connected with the gas company serving Laredo in number of years, approximately?

A. I began with the Border Gas Company on the 18th of October, 1910.

Q. Mr. Stein, you are familiar with the manner in which the rate payers are billed for gas used in Laredo at this time, or rather, for the period ending July 31, 1932?

A. I think so.

Q. With reference to bills being all set out at one particular day in the month, or at various times, will you please explain the manner in which bills are set out in Laredo to rate payers for gas used by them?

A. As of the year ending July 31, 1932?

Q. Yes.

A. I do not know how it was handled at the beginning of the year.

Q. Which year.

[fol. 1602] A. This year. I was gone from January 1, 1931, until about the 6th of June of this year. I know how it was handled in July.

Q. How was it handled in July?

A. The meters were read, what I would call continuously or practically daily, and about five days after the meters are read bills are prepared and mailed to the customers. Bills are mailed out usually from the first until the 26th of the month. Very few bills are mailed out between the 26th and the first.

Q. Those bills cover gas purchased for what previous period? Say, a bill is mailed on the first of the month, it covers purchases of gas for what period prior to them?

A. The bills mailed on the first of June would probably cover gas purchases from the 25th day of the previous month. Bills mailed on the first of October would be for gas used from the 24th of August until the 24th of September.

Q. Now, what I want particularly to know, you say bills are mailed out continuously from about the 1st to the 25th or 26th of the month?

A. Yes.

Q. Bills mailed out on the first are payable 10 days after that, or how soon after that?

A. It would be approximately 10 days.

Q. And bills mailed out on the 2nd would be one day more, [fols. 1603-1682] and so on down?

A. Yes.

Q. Now, what was the practice of the company in July with reference to requiring meter deposits?

A. Deposits were required since I have been there in practically all cases except where the credit of a person is definitely established by previous records.

Q. Is there any particular minimum amount of deposit; is there any standard amount or does it vary?

A. Yes, it varies. Normally for resident purposes it is a nominal amount of $5.00 which is required, but in the case of restaurants or other classes of customers that use more than the $5.00 worth of gas in 60 days, an estimate is made of the amount they would probably use, and a deposit is asked for.

Q. In other words, larger users are required to make larger deposits?

A. Yes.

Q. To cover what you would currently estimate to be about a 60 day volume of gas in dollars?

A. Yes. It does not always happen, of course, that way.

Q. But that is the purpose of requiring the deposit?
A. Yes.

. . . . . .

[fol. 1683] Mr. Coates: Why not let the record show that Mr. Elrod was offered, and that we objected on the same grounds as we have objected before, and that the objection was noted, and that the Commission would let him testify as to the particular amount which he believed would be sufficient for a return upon the fair value of the plant and property of these companies, and also that 2 per cent, in his judgment, per annum, was sufficient for depreciation, and for all other items of depreciation reserve, or retirement accounts.

Mr. Lange: We believe Mr. Elrod should briefly give his testimony on that.

Mr. Coates: We would agree that that is what he would testify.

. . . . . .

[fol. 1684] Mr. Lange: He was going to testify in connection with the rate of depreciation as applicable to the properties, and that would be his calculation also, as to what he would consider a fair rate of return on the investment.

Commissioner Thompson: What would that be?

Mr. Lange: 7 per cent. Of course if he is not permitted to testify, or prepare an exhibit and submit, if the Commission thinks the record reflects that——

Commissioner Thompson: That you are going to call 7 per cent fair?

[fols. 1685-1691] Mr. Lange: Yes sir. Of course we do not want to prolong this hearing any more than counsel for the gas company does. We are the ones who are going to shoulder the burden of this expense, although we do not concede that fact entirely.

Commissioner Thompson: And that his testimony would be to the effect that he considers 7 per cent a fair return on the property?

Mr. Lange: Yes sir.

Mr. Coates: And all that would go in subject to our objection as to his competency?

. . . . . .

[fol. 1692] Q. Mr. Stein, did you have anything to do with negotiating the contract which has been introduced in evidence here between the South Texas Gas Company and [fol. 1693] Southern Gas Company relating to the gathering lines in the Carolina-Texas Field?

A. I did.

Q. Were you the man in charge of those negotiations for South Texas Gas Company?

A. I was.

Q. And who was in charge of the negotiations for the Southern Gas Company?

A. Mr. L. A. Nordan.

Q. And will you state what the situation was that led to the making of that contract?

A. The South Texas Gas Company and the South Texas Production Company had some purchase contracts in the Carolina-Tex Field with wells that were becoming depleted rather rapidly.

Q. By that do you mean wells owned by other parties, and purchase contracts for the purchase of gas at the mouth of the well?

A. Yes, the Southern Gas Company had some wells up in the northern part of the field.

Q. The northern part of the Carolina-Tex Field?

A. That is right, and I tried to get an additional supply, and knowing that the Southern Gas Company was not taking any gas out of the field at that time, I tried to see if some arrangement could be made to connect up the wells that the Southern Gas Company had with our line.

Q. And by "our line", you mean the South Texas line? [fol. 1694] A. Yes.

Q. All right, go ahead.

A. I first talked of buying the gathering system that the Southern had.

Q. That is the gathering system in the Carolina-Texas Field?

A. Yes.

Q. Now, was that gathering system at that time identical with the gathering system that exists there now?

A. No, there was some slight changes made later.

Q. All right, sir.

A. I was told that the gathering system could not be sold very readily, and in the course of the discussion it was thought best to make some arrangement to have the South-

ern Gas Company continue to purchase the gas from the wells, and charge the South Texas Gas Company for gathering the gas.

Q. In other words, you went over there; your negotiations started in with South Texas Gas Company attempting to purchase that gathering system, and you ended up with an agreement to rent the gathering system and pay a gathering charge?

A. That's right.

Q. All right, go ahead.

A. After that we finally reached an agreement as to what the gathering charge would be.

Q. And what was that agreement?

A. One cent per thousand cubic feet.

[fols. 1695-1698] Q. Now, was that contract negotiated entirely; that is, were the negotiations entirely between you and Mr. Nordan, you representing South Texas and Mr. Nordan representing the Southern?

A. Yes.

Q. And does the contract as written up and introduced in evidence here reflect the trade that you two gentlemen made?

A. Yes, that's right.

Q. I may be anticipating some cross examination, but the record reflects that the South Texas and the Southern were at that time under the same substantial stock ownership?

A. We were a part of the Moody-Seagraves interests.

* * * * * * *

[fol. 1699] Cross-examination.

By Mr. Bobbitt:

Q. Mr. Stein, at the time this hard and fast trading you were speaking of was going on Moody-Seagraves owned the whole outfit; they owned South Texas Gas Company?

A. It was under the Moody-Seagraves interests.

[fols. 1700-1703] Q. They owned it, didn't they?

A. It was owned by United Gas Company.

Q. Did Moody-Seagraves control it?

A. Yes.

Q. Moody-Seagraves also controlled the Southern?

A. Yes.

Q. And Moody-Seagraves controlled the whole works?
A. That's right.
Q. And South Texas Gas Company and Texas Border Gas Company and the Southern, you might say, were side-shows; they were subsidiary companies of Moody-Seagraves?
A. They were subsidiary companies.
Q. And when one of you fellows were trading with one subsidiary for another subsidiary you were working for the same boss?
A. Yes, but each of us were held responsible for the particular property under our charge?
Q. You were each held responsible for the particular property under your charge, but after all the profit, if any, and the benefit, if any, went into the same pocket?
A. I do not know where they went.
Q. Well, they went into the owning concern, didn't they?
A. Yes, the holding company, I suppose.

. . . . . .

[fol. 1704] Q. Now, you testified, I believe, and if not I will stand corrected, the first question with reference to when the Jennings line tied in was made with the checkered line and the Roma line, and I think your answer was that the tie-in was made to serve the Roma-Monterrey line with gas; isn't that what your answer was to the first question directed to you with reference to when or why the tie-in was made to the Jennings Junction-Monterrey line?
A. Do you mind reading the question?

(Reporter repeats question to witness.)

Mr. Coates: Do you remember what you said?

Q. I want to know that. If the stenographer will check that answer. I believe that is what the answer was, that that is the reason why it was made; that was his first answer.
A. My recollection of it was that the tie-in was made between Jennings Junction and Jim Hogg Junction at the time the Monterrey line was built, or shortly afterwards.
[fol. 1705] Q. At the time the Monterrey line was built?
A. Or shortly afterwards.
Q. To supply the Monterrey line with gas?

A. To bring gas into this line into Laredo and into the Jennings Field. If I did not say it, that is what I should have said.

Commissioner Thompson: The record shows that he said it was made to supply Laredo with gas.

Mr. Lange: I think the first answer was just the other way around.

Commissioner Thompson: Turn back and read it.

By Mr. Lange:

Q. That first question was that that tie-in was made at the time the Roma line was built. That was your answer.

A. Shortly after.

Q. Then you were asked the question as to the check meter at the Jennings Junction, and I will ask you that question now. On what do you base your knowledge that gas flowed through this Jennings Junction meter into Laredo at the time the Roma line was built; the winter of 1929 and 1930.

A. Our high pressure wells were in the east Jennings area. Jennings No. 6, which was drilled under my supervision. In order to get this additional pressure into the line to serve Laredo we had to get gas from this western section of the field, and in order to get that gas into the line to Laredo it was brought in through this east Jennings [fol. 1706] gathering system into the 10 inch, and then through the 6 inch to Pescadito.

Q. Do you know definitely whether any was brought in prior to the time the Monterrey-Roma line was completed, and gas flowing through the Roma line to Monterrey?

A. What was that?

Q. Do you know if any gas was brought from the east side of the triangle into Laredo prior to the time the Roma line was completed?

A. I do not know what you mean by that.

Q. Whether any gas was brought from the east side of the triangle into the City of Laredo before the completion and tie-up of the line at the Roma Junction?

A. I don't know that.

Q. That is exactly it. I wanted to know if you know. Now, going to the Carolina-Tex. Field you stated that speaking of other connecting or standby lines to serve the Laredo area that the extreme northeast end of the green gathering

line system shown on this map, that there is a line shown in skeleton form in green down to the Carolina-Tex Junction which you stated carried gas to San Antonio; is that correct?

A. Yes, a number of years before the connection was made.

Q. Does any gas flow from Carolina-Tex. Junction northwestward into Laredo?

A. I don't know.

[fol. 1707] Q. At this time, or did it, the period ending July 31, 1932?

A. I do not know.

Q. Did it at any time before that?

A. I do not know.

Q. You stated that you had dealt with Mr. Nordan in your capacity as an official of the South Texas at the time he was acting in his capacity as an official of the Southern in arriving at the solution of a problem as to whether or not to buy those gathering lines in green in the Carolina-Tex. Field, and the first question that came up was the question of purchase by the South Texas from the Southern of those gathering lines?

A. Yes.

Q. In connection with that portion of the trading what was the approximate amount of purchase price that was discussed?

A. As soon as I could not very readily be sold——

Q. What do you mean by not being able to be readily sold?

A. I understand it was held under a mortgage.

Q. The owner of property can sell property even if there is a mortgage on it subject to it or assume it.

A. I don't know.

Mr. Coates: Well, it depends entirely on the terms of the mortgage indenture.

Q. Did you discuss the terms of the mortgage indenture?

[fol. 1708] A. Yes, I was told the mortgage would not permit it.

Q. Did you take it up with the holders of the mortgage indenture?

A. No sir.

Q. Aren't there often properties which cannot be sold

under mortgage but which can be if you get the consent of the mortgage holder?

A. I don't know.

Q. Before you got to that point was the purchase price of the sale broached, or some tentative proposition made as to what a sale price would be?

A. No, that closed the door on that proposition.

Q. Didn't you get a tentative figure as to the value of it before you even got to that phase of the mortgage?

A. No sir.

Q. You did not figure the value of it at all?

A. No sir.

Q. Did you make any proposition as to what you would pay for it?

A. No sir.

Q. Or what it would be worth?

A. No sir.

Q. Did you make any estimate of what it would be worth if you bought it?

A. No sir, nothing definite.

Q. Did you attempt to appraise it?

[fols. 1709-1713] A. No, I did not.

Q. If you bought a piece of property like that you would want to know something about its value before you would even discuss it, wouldn't you?

A. Yes, I would want to know something about it.

Q. You made no attempt to learn its value?

A. I found out it could not be bought readily.

Q. When did you find that out?

A. At one of my meetings with Mr. Nordan.

Q. Was it early in the stage of the trading or later on?

A. It was one of the propositions that came up.

Q. You state that there was never at any time in those discussions that the trade price or the value of those lines was even discussed?

A. No price at all.

Q. And you made no effort to sound him out as to how much they would want if they did sell it?

A. I do not remember asking him the price.

Q. As near as you can remember, approximately.

A. I do not remember any price. There were also some purchase contracts in the purchases.

Q. I mean as to these gathering lines. There was noth-

ing, even a price, discussed as to what Mr. Nordan's company would want for it, or what they considered them to be worth.

A. I never asked him.

. . . . . .

[fol. 1714] Q. With reference to having some more con-
[fol. 1715] tracts of this character, would you like to buy gas in the Carolina-Tex Field, and around there, for 4 cents a thousand for your company?

A. I am not operating that section now.

Q. Well, you have a pipe line running up to the Carolina-Tex Field?

A. Yes.

Q. And a lot of wells all around that territory?

A. Yes.

Q. Plenty of gas can be bought up there for 4 cents a thousand?

A. I understand some additional wells have been discovered since that contract.

Q. And some gas can be bought for 3 cents?

Mr. Coates: What does that have to do with this case?

Mr. Bobbitt: I am talking about improvident contracts. You are charging Laredo 6 cents a thousand.

Mr. Coates: I object to it as being immaterial and not having any bearing on any issue in this case.

Commissioner Thompson: I think he said he would be glad to have some more contracts like that.

Mr. Bobbitt: That is at 6 cents a thousand. To pay one cent a thousand for gathering it.

Commissioner Thompson: I thought you were developing that line of questioning.

[fols. 1716-1746] Mr. Bobbitt: Have you made any effort, acting for this concern up there, Mr. Stein, to buy gas out there in the field at 4 cents a thousand, or construct a gathering system?

Mr. Coates: We object to it as being wholly immaterial.

By Mr. Bobbitt:

Q. Or to pay 5 cents without a gathering charge; have you made any efforts at all in that direction?

A. If you are talking about at the present time I can say "No, I have not made any efforts."

Q. Or during the year ended July 31, 1932?

A. No, I have not.

Q. As a matter of fact, you know of a number of gas wells in that vicinity that cannot sell their gas; they have no market for it?

A. I know of one or two that are shut in at the present time, but I do not know whether they failed to be successful in selling it.

Q. As a matter of fact, can't a lot of gas be bought from those wells in that vicinity for 5 cents a thousand without a gathering charge?

A. You mean now?

Q. Yes.

A. Possibly you could get the producer to extend the line to you.

* * * * * * *

[fols. 1747-1749] Testimony of M. A. Abernathy

Mr. Lange: Were you paying a gathering charge to any other than one of your subsidiary companies during the period ending July 31, 1932, from this system serving Laredo?

A. I do not recall any other.

* * * * * * *

[fol. 1750] Whereupon the witness H. E. Womack, being recalled, testified as follows:

Questions by Mr. Coates:

Q. What is your name?

A. H. E. Womack.

Q. You are the same H. E. Womack that has heretofore testified in this case?

A. Yes.

Q. Mr. Womack, have you prepared an operating statement of Texas Border Gas Company and South Texas Gas Company showing operation for inside the City of Laredo only, for the period ending October, 1932?

A. For the 12 months period ending October, 1932, yes.

Q. Have you got that in the form of an exhibit?

A. Yes, I have.

Q. And was that statement prepared in exactly the same manner, using exactly the same bases of allocations and all other bases as the exhibit you have heretofore introduced in this case covering the 12 months ended in July?

A. That is correct.

Q. Except that you used the 12 months ending October, 1932?

A. Yes, the same methods of allocation were used.

[fol. 1751] Q. Now, Mr. Womack, in anticipation of the hearing in this case which was to come off in June of this year, did you prepare an accounting exhibit for the 12 months ended March, 1932?

A. Yes.

Q. And in substantially the same form and manner as the exhibit heretofore introduced?

A. Yes sir.

Q. And the accounting exhibits prepared for those three 12 months periods will cover what entire spread of operations in months?

A. About 19 months, I believe.

Mr. Lange: Now, if the Commission please, at the time the City of Laredo made its supplementary audit, the period ending with July 31, 1932, was the final period, as we understood it.

Mr. Coates: That was by reason of the postponement in the case. You have gone back to 1910 to show a trend, but in order to show something broader than a 12 months trend we offer these exhibits.

Mr. Lange: There could be a broader trend by taking 2 or 4 years prior to that time.

Mr. Coates: But the materiality of these things, it seems to me, is in proportion to the closeness of the date of hearing, or as close as you could get to the date of the hearing.

[fols. 1752-1760a] Commissioner Thompson: We will admit them. We are anxious to see what is going on.

Mr. Lange: That is true, but at the time the City made its last audit, as of that time, we would not have had the opportunity to come right on down to date.

Mr. Coates: Yes, you could.

Mr. Lange: This is the position. The hearing date was agreed upon as the first Monday in October, and at that time we were to complete our auditing period; we did first want to run it down through June, 1931, in order to make

it an auditing period, and we took it up, and Mr. Coates said it should be some closer month, and we fixed on July 31st as the final month.

Commissioner Thompson: And you both agreed on that date?

Mr. Lange: Yes, and all the figures are based on that date.

Mr. Coates: The request was made as to what would be the last date in 1932 for which complete accounting data would be available for examination by the city's auditors in order to present an accounting exhibit for the hearing in October.

Mr. Lange: Yes, that's right.

Mr. Coates: And we told you July, and set up our main accounting exhibit as of that time.

* * * * * * *

[fols. 1761-2069] [File endorsements omitted]

[fol. 2070] The following document, marked Exhibit No. 3, offered by the Company, as shown on page 92, volume "A", at the October hearing before the Railroad Commission, in Laredo, was introduced as part of Defendant's Exhibit No. 13 upon the trial of this case, as appears at page 755, volume I, of this Statement of Facts.

Chas. E. Pickle, Official Reporter, District Court, 53rd Judicial District.

[fol. 2071] United Gas Public Service Company

Engineering Department

Houston, Texas

[fol. 2072] COMPANY'S EXHIBIT No. 3

Going Value

Definition:

"Going value" is the difference between the value of an operating, assembled and established property, functioning with a seasoned, organized, coordinated plant and personnel, with customers secured and business established, in active and efficient operation, rendering service and capable of earning a reasonable return, while charging no more than fair and reasonable rates; and the value of a like property of mere physical units, built and operable, but not actually

operating or with customers connected or business attached. As used in this appraisal, going value also means the added value of the property as a whole, over the sum of values of its component parts, which is attached to it because it is in efficient operation, has its business connected, and is capable of earning a reasonable return while charging no more than fair and reasonable rates.

Going Value Should be Added as a Separate Item:

In the appraisal of these properties the amount of going value must be added as a separate item because this element of value has not been included or taken into consideration in any other part of the appraisal.

These properties have been valued by the method of deducting existing depreciation from the present reproduction cost new, the value of the land having been taken separately. The physical elements of these properties have been inventoried and classified, and the current unit cost of every item has been applied to arrive at the total cost of the material, together with the direct cost of assembling these materials into the present co-ordinated natural gas gathering, transmission, and distribution properties.

The general construction expenditures, which include the preliminary and organization expenses, engineering and supervision expenses, administration and legal expenses, taxes during construction, and interest during construction, are inseparable from the construction of a property of this kind, and are an inevitable and necessary part of the cost. They are as much construction cost as material and labor, even though they are not capable of physical identification after the completion of the construction work, and in their nature attach to the whole or large parts of the property rather than to any particular unit.

Existing depreciation is then applied to all depreciable property, and to this is added cash working capital and materials and supplies on hand, to obtain the value of the [fol. 2073] mere physical elements of these properties, built and operable, but not actually operating or with customers connected or business established.

Thus far no consideration has been given to, nor has anything been included for, going value; and unless included as a separate and additional item, going value will be omitted.

After the completion of the construction of a natural gas

project, time is required in which to take on the customers and business enjoyed by the Company as of the date of valuation. This period is known as the "development period."

The Development Period:

In this period certain costs must be met and carried as part of the permanent cost and consequent value of the property. They arise from the fact that in the period under consideration, although the property is not fully used, the full carrying or so-called "fixed" charges, such as interest and the cost of securing business, must be met.

The fixed, or carrying, charges in question are simply such fixed charges (akin to such charges during construction) extended to the development period. The propriety of including fixed charges during construction as elements of the cost and consequent value of the property is well recognized. Similar costs during the development period are equally as real, and are elements of going value.

This period of gradual development cannot be avoided. Parts of the plant must remain idle during the development period (since it is economically desirable to provide initial facilities for the potential business securable in a few years, rather than for the business immediately available) due to the inability of the new enterprise to secure immediately all the potential business available or the inability of all possible consumers to avail themselves immediately of the use of gas. It takes time to develop the business from nothing up to full consumer and consumption saturation.

However, during this development period the Company can charge only those rates which would yield no more than a reasonable net return if it had the full measure of business attached. During this period the Company must continue to pay interest on the money invested in that part of the property necessarily installed and ready for business, but which must remain partially idle until the business is fully developed.

[fol. 2074] In determining the existence of going value, some consideration has been given to the Company's financial history, and particularly its earnings record on the dollars invested. Such an earnings record has been set up by the accountant for the City, and this record shows a history of net earnings. While these earnings are not up to

the present-day standard of an adequate and compensatory rate of return, any deficiency of earnings is the result of an insufficient rate, and not the result of an inherent inability of the properties to earn a reasonable return at fair rates well within the worth of the service rendered.

The service of natural gas for household, commercial, and industrial purposes in the territory where these properties are located, and in the country generally, is not an outworn business, but a modern, active, and growing industry, which is maintaining and ever increasing its field of usefulness.

The City of Laredo and the remaining territory served by these properties constitute a substantial market for natural gas, and the properties are well located, constructed, and designed, to reach and serve this market. Foresight has been used in planning the properties, with the present and future needs of their consumers in view, and so as to take care of a reasonable future growth such as may be expected in the part of Texas where these properties are located.

Moreover, the properties have an experienced, efficient, and co-ordinated operating personnel, and have been engaged in serving and developing their market for more than twenty years, so that consumers have grown up with and have long been accustomed to the use of natural gas.

In the extension of natural gas service to municipalities and communities which have not had this service, everyone familiar with the business understands that after the property is constructed and put in operation, there follows a period of from three to five years, or more, in which the business is being developed, and operations and operating routines are being established and co-ordinated.

These properties have a very substantial element of going value attached to and inhering in them. The only problem remaining is to measure and express this value in terms of dollars.

This going concern value herein considered is that represented by the cost of placing the companies in full and effi- [fol. 2075] cient operating momentum and of fostering and developing their position in their field of service. These elements of value now possessed have resulted from the expenditure or investment of money, and from the expenditure of energy and skill in the operation and development of the

properties over and above those costs which are represented only by the physical plant and properties. This going concern value is, therefore, to be distinguished from and considered in addition to the mere physical property structurally completed but not placed in use.

These elements of value resulting from the necessary process of transforming the inert physical properties as they stand after construction, into a going concern with the operating forces assembled and trained to work smoothly and efficiently together, with all parts of the equipment adjusted to efficient service, and with the business built up to the point of supporting the investment, are:

(a) Interest or return unearned during business development period.

If a development period of three years is taken, with 50% of the business attached at the end of the first year, 80% by the end of the second year, and present consumer and consumption saturation reached by the end of the third year, the going value can be set as the difference between the full carrying or so-called fixed charges (which have resulted from the expenditure or investment of money for the plant and from the expenditure of energy and skill in the operation and development of the property, over and above those costs which are represented only by the physical plant and properties) and the fixed charges on the investment utilized in serving those customers attached in Laredo during the development period.

The investments during the first, second, and third years in the Laredo Distribution System, are as follows.

[fol. 2076] Summary

Texas Border Gas Company

Laredo, Texas, Distribution System

Account		Cost New 1st Year	2nd Year	3rd Year
326	Land	$250	$250	$250
329	District Regulator Structures	727	727	727
330	Other Distribution System Structures	1,132	1,132	1,132
332	Measuring & Regulating Equipment:	2,780	2,780	2,780
333	Distribution Line Equipment	379,566	379,566	379,566
334	Services—Except Industrials	20,247	52,641	72,887
	—Industrials	2,170	5,641	7,811
335-6	Meters & Meter Installations	15,550	40,431	55,981
337	Service Regulators	152	395	547
338-A	Other Distribution System Equipment	2,387	6,205	8,591
-B	Furniture & Fixtures	10,295	10,295	10,295
-C	Automotive Equipment	5,807	5,807	5,807
-E	Tools & Equipment	2,428	2,428	2,428
	Total—Including Land	$443,491	$508,298	$548,802
	Total—Excluding Land	$443,241	$508,048	$548,552
General Construction Expenditures:				
	Preliminary and Organization Expense	$19,277	$19,277	$19,277
	Engineering & Supervision Expense	32,320	32,320	32,320
	Administration & Legal Expense	21,815	21,815	21,815
	Taxes During Construction	3,548	4,066	4,390
	Interest During Construction	25,364	28,545	30,532
Total General Expenditures		$102,324	$106,023	$108,334
	Land Plus 10%	$275	$275	$275
Total—Including General Construction Expenditures		$545,840	$614,346	$657,161

[fol. 2077] At the rate of 5% per annum as a Reserve for Depreciation and all other causes of retirement of physical property and 10% per annum for interest on the investment, the fixed charges on the distribution system during the first three years' operations are:

Fixed Charges During Development Period

First Year	$81,876
Second Year	92,152
Third Year	98,574
	$272,602

Consequently, the fixed charges on that part of the physical property utilized during the development period in serving those customers attached in Laredo, are:

Fixed Charges During Development Period on Investment Utilized

First Year	20,469
Second Year	59,899
Third Year	88,717
	$169,085

$272,602 — $169,085 = $103,517, Going Concern Value.

In the appraisal of the distribution system in Laredo the Going Concern Value has been conservatively set at 12½% of the investment, or $84,290.

A similar computation on that part of the transmission and field gathering system employed and used for gas distribution to consumers residing in Laredo gives the following results.

At the rate of 6% per annum for retirement of physical property, and 10% per annum for interest on the investment, the fixed charges on the transmission system during the first three years' operations are:

Fixed Charges During Development Period

First Year	$126,867
Second Year	126,867
Third Year	126,867
	$380,601

[fol. 2078] Fixed Charges During Development Period on Investment Utilized

First Year	$31,717
Second Year	82,464
Third Year	114,180
	$228,361

$380,601 — $228,361 = $152,240, Going Concern Value.

In the appraisal of the transmission system used for serving gas to consumers residing in Laredo, the Going Concern Value has been conservatively set at 12½% of the investment, or $99,115.

At the rate of 10% per annum for retirement of physical property and 10% per annum for interest on the invest-

ment, the fixed charges on the field gathering system during the first three years' operation are:

Fixed Charges During Development Period

First Year	$7,006
Second Year	7,006
Third Year	7,006
	$21,018

Fixed Charges During Development Period on Investment Utilized

First Year	$1,752
Second Year	4,554
Third Year	6,305
	$12,611

$21,018 — $12,611 = $8,407, Going Concern Value.

In the appraisal of the field gathering system used for serving gas to consumers residing in Laredo, the Going Concern Value has been conservatively set at 12½% of the investment, or $4,379.

The above are very conservative estimates, and contemplate a more rapid development of business than has been the actual experience of the United Gas System in a number of communities in Texas, Louisiana, and Mississippi.

In addition to the going concern value as shown by the above computations, there are other substantial elements [fols. 2079-2109] of value which attach themselves to the going value of the composite and co-ordinated natural gas facilities available for use in distributing natural gas to consumers in Laredo, and some of which are:

(b) Attached and trained personnel.

(c) Attached business.

(d) Establishment of operating record forms and development of methods and operating procedure.

(e) Consolidation value.

(f) Refinements of methods and operating procedure.

The record in this case shows that both the City and the utility have treated the properties as though they were owned and operated by the same Company, and have made a consolidated rate base and operating statement. As a matter of fact, these properties, together with the production properties in which the gas is produced, are operated as a part of the United Gas System. Thus there is provided and dedicated to public use and to the use of Laredo consumers, natural gas production, transmission, and distribution properties in connected operation.

The value of this connected operation is something more than the aggregate of the separate parts of the properties operated separately, and this value is not expressed or given effect in the estimates of reproduction costs of the properties themselves, and can only be expressed as an element of going value. This value results not from unity of ownership, but from unity of use and connected operation.

In this connection an additional advantage to these properties in being a part of the United Gas System is that there is a transmission line extending beyond the Carolina-Tex. Field, already constructed and ready for use, through which Laredo might be served from the gas fields in the vicinity of Bruni, Texas (where the United Gas System owns and operates other gas-producing properties) should the rapidly depleting gas reserves in the Carolina-Tex. Field become inadequate. Also, deeper sands are known to exist in the Jennings Field which, upon being developed, will offer extensive gas reserves which may be used to insure uninterrupted service to Laredo for many years.

The fact that the distributor of natural gas in Laredo owns and operates its own production and transmission properties contributes to and enhances the going concern value of these properties. The advantages to the consumer of efficient operation and experienced management are obvious. From any point of view, the elements of going concern value which have been mentioned have a substantial and real worth.

[fol. 2110]

COMPANY'S EXHIBIT 5

Texas Border Gas Company

Laredo, Texas

Natural Gas Service

Comparison of Revenues Under Present Rate with Revenues Which Would Have Been Obtained if Customers Under Franchise Rate Had Operated Under Proposed Rate During the Period For the 12 Months Period Ended July 31, 1932

Class of Business	Meters	Gas Sales M C F	Revenues Present Rate	Under Proposed Rate	Difference from Present	Percent Difference
Residential	4,288	170,752	$122,888.78	$175,669.51	$52,780.73	42.95
Commercial	327	70,486	34,142.37	36,942.04	2,799.67	8.20
Industrial	9	91,771	17,979.29	17,979.29	.....	.....
Government and Municipal	30	4,303	2,256.63	2,792.35	235.72	9.22
Public Utility—Fuel	2	76,943	15,400.10	15,400.10	.....	.....
Total	4,656	414,255	$192,667.17	$248,783.29	$55,816.12	28.97

Present Rate #1

(Franchise Rate)

$0.75 gross per 1,000 cubic feet for all gas used during the month.
Discount: 10% in 10 days.
Minimum Monthly Bill: $1.00 net.

Proposed Rate

$1.50 net each month, which $1.50 entitled consumer to use during such month 1,000 cu. ft.
.90 net per 1,000 cubic feet for the next 2,000 cu. ft. used during the month.
.70 net per 1,000 cubic feet for all additional gas used during the month.
Minimum Monthly Bill: $1.50 net.

[fol. 2111] South Texas Gas Company and Texas Border Gas Company

Laredo, Texas

Operating Statement Showing Effect of Proposed Rate on Business Now Under Franchise Rate

Twelve Months Ended July 31, 1932

Operating Revenues:	
Sale of Natural Gas:	
Residential Sales	$175,669.51
Commercial Sales	36,942.04
Industrial Sales	17,979.29
Government and Municipal Sales	2,792.35
Public Utility—For Fuel Sales	15,400.10
Reconnect Charges	1,857.40
Total Operating Revenues	$250,640.69
Operating Expenses (Assumed same as actual):	
Production Expenses	26,638.70
Transmission Expenses	12,557.80
Distribution Expenses	21,309.93
Utilization Expenses	462.83
Customers Expenses	16,071.76
New Business Expenses	6,790.34
General Expenses	30,069.66
Taxes	13,513.60
Total Operating Expenses	$127,414.62
Net Operating Revenue	123,226.07
Allowance for Reserves	66,039.00
Net Return on Appraised Value of Property	57,187.07
Per Cent Earned on Appraised Value of Property	4.57%

Note.—Rate Base $1,252,438.00.

(Here follows 1 paster, folios 2112-2119)

[Cols. 2112-2119]

Houston, 6/24/32, FCB-AWL.

Texas Border Gas Company

Laredo, Texas

Residential Natural Gas Service

Comparison of Revenue on the Basis of Monthly Bills Rendered Under Present Rate with Revenue Which Would Be Obtained Under Ordinance Rate and/or Proposed Rate For the 12 Months Period Ended March 31, 1932

MCF Zones	Monthly Bills		Gas Sales		Revenue					Average Revenue Per Bill				
	Number of A	Percent of Total Bills B	MCF C	Percent of Total MCF D	Under Present Rate E	Under Ordinance Rate F	Difference G	Under Proposed Rate H	Difference I	Under Present Rate J	Under Ordinance Rate K	Difference L	Under Proposed Rate M	Difference N
2	2,929	5.42	584	.34	$1,757.40	$1,757.40	$ 0	$2,636.10	$878.70	$0.60	$0.60	$ 0	$0.90	$0.30
1	8,667	16.03	8,667	5.04	8,667.00	8,667.00	0	13,000.50	4,333.50	1.00	1.00	0	1.50	.50
2	14,872	27.51	29,744	17.30	20,788.13	14,872.00	5,916.13†	35,692.80	14,904.67	1.40	1.00	.40†	2.40	1.00
3	11,670	21.59	35,010	20.36	24,484.00	14,004.00	10,480.00†	38,511.00	14,027.00	2.10	1.20	.90†	3.30	1.20
4-5	10,287	19.03	46,291	26.93	32,369.60	18,516.40	13,853.20†	44,748.10	12,378.50	3.15	1.80	1.35†	4.35	1.20
6-10	4,688	8.67	37,504	21.82	26,229.61	15,001.60	11,228.01†	31,878.40	5,648.79	5.60	3.20	2.40†	6.80	1.20
11-15	687	1.27	8,931	5.19	6,231.41	3,572.40	2,659.01†	7,076.10	844.69	9.07	5.20	3.87†	10.30	1.23
16-20	169	.31	3,042	1.77	2,123.26	1,216.80	906.46†	2,332.20	208.94	12.56	7.20	5.36†	13.80	1.24
21-25	58	.11	1,334	.78	930.95	533.60	397.35†	1,003.40	72.45	16.05	9.20	6.85†	17.30	1.25
26-30	14	.03	392	.23	274.35	156.80	117.55†	291.20	16.85	19.60	11.20	8.40†	20.80	1.20
31-40	7	.01	250	.15	174.37	100.00	74.37†	183.40	9.03	24.91	14.28	10.63†	26.20	1.29
41-50	2	.01	92	.05	64.29	36.80	27.49†	66.80	2.51	32.15	18.40	13.75†	33.40	1.25
51-60	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
61-70	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
71-80	1	.01	76	.04	55.89	30.40	25.49†	54.40	1.49†	55.89	30.40	25.49†	54.40	1.49
Total	54,051	100.00	171,917	100.00	$124,150.26	$78,465.20	$45,685.06†	$177,474.40	$53,324.14	$2.30	$1.45	$0.85†	$3.28	$0.98

† Red in copy.

Column	Definition
A	Number of monthly bills rendered between the zone limits shown
B	Percentage of bills rendered in each zone to total bills
C	Gas Consumption in thousand cubic feet for each zone
D	Percentage of consumption in each zone to total consumption
E	Revenue obtained in each zone under Present Rate
F	Revenue that would be obtained in each zone had the Ordinance Rate been effective over the period
G	Difference in revenue per zone between Present Rate and Ordinance Rate
H	Revenue that would be obtained in each zone had the Proposed Rate been effective over the period
I	Difference in revenue per zone between Present Rate and Proposed Rate
J	Average revenue per bill in each zone under the Present Rate
K	Average revenue per bill in each zone under the Ordinance Rate
L	Difference in average revenue per bill in each zone between Present Rate and Ordinance Rate
M	Average revenue per bill in each zone under the Proposed Rate
N	Difference in average revenue per bill in each zone between Present Rate and Proposed Rate

Present Rate

$0.75 gross per 1,000 cubic feet for all gas used during the month

Discount: 10% in 10 days
Minimum Monthly Bill: $1.00 net

Ordinance Rate

$0.40* gross per 1,000 cubic feet for all gas used during the month
Discount: 10% in 10 days
Minimum Monthly Bill: $1.00 net

Proposed Rate

$1.50 net each month which $1.50 entitles consumer to use during such month 1,000 cubic feet.
.90 net per 1,000 cubic feet for the next 2,000 cubic feet used during the month.
.70 net per 1,000 cubic feet for all additional gas used during the month.
Minimum Monthly Bill: $1.50 net.

* Ordinance Rate as applied is the gross rate.

[fols. 2120-2121] COMPANY'S EXHIBIT No. 6

July 6th, '32.

Texas Border Gas Company, Laredo, Texas.

Attention Mr. W. W. Stein, District Manager

GENTLEMEN:

Receipt, on June 29th, of petition of the Texas Border Gas Company dated June 27th, 1932, addressed to the Mayor and City Council of the City of Laredo, is respectfully acknowledged.

In order that the City of Laredo may be enabled to give the above mentioned petition proper consideration, as contemplated by our statutes, it will be necessary that the governing body of the City be furnished with the facts and figures upon which the Texas Border Gas Company's application for an increase in domestic rates is based. Upon presentation of such data to us by the Gas Company, we shall give the matter our careful consideration and then advise you as to our decision in connection therewith.

Very truly yours, Albert Martin, Mayor, City of Laredo.

[fol. 2122] COMPANY'S EXHIBIT No. 7

United Gas System

Laredo, Texas, July 12, 1932.

To the Honorable Mayor and City Council of the City of Laredo, Laredo, Texas.

GENTLEMEN:

This will acknowledge receipt of Mayor Martin's letter of the sixth instant.

Your Honorable Body now has before it three gas rate schedules, namely, a schedule of reduced rates contained in the rate reduction ordinance from which an appeal to the Railroad Commission has been taken, the existing gas rates in Laredo, and the rate schedule proposed by the Company in its recent application.

Since this entire matter is now before the Commission, we believe that the Commission should fix fair and reason-

able rates for Laredo in keeping with the testimony which is presented when the matter is heard, without regard to whether the rates so fixed are greater or less than those which have previously existed. The possible construction of the statute which requires the filing of an application for increased rates with a city which has already enacted a rate reduction ordinance, necessarily places the governing body of that city in the position of defending a schedule of reduced rates before the Commission at Austin, and at the same time sitting in judgment upon an application for increased rates at home.

We enclose a statement showing operating expenses of South Texas Gas Company and Texas Border Gas Company incurred solely in gathering, transmitting and distributing gas to the City of Laredo and the gross revenues from gas sales to Laredo consumers, such operating statement covering the twelve (12) months' period ended March 31, 1932. While we neither agree with nor accept Mr. Neff's figures, we call your attention to the fact that Mr. Neff has already fixed the value of the properties of South Texas Gas Company and Texas Border Gas Company solely used and employed to serve Laredo consumers at $718,072.26, and has found that $35,752.51 per year is a proper reserve for depreciation.

[fol. 2123] We assume that you will wish to have this operating statement checked by your city representatives and the books of the Company will be open to you for this purpose.

The checking of this operating statement will permit you, on figures wholly found by city representatives, to determine whether existing rates are more or less than adequeate.

Until you have determined the inadequacy of the existing rates, as the figures which you have at hand and which we are now furnishing you enable you to do, we think that you will agree with us that no useful purpose can be served by presenting facts and figures to show how much existing rates should be increased in order to yield a reasonable return.

We will be glad to know the conclusion you reach with respect to the adequacy of existing rates at Laredo and will be prpeared to act promptly in accordance therewith.

Very respectfully yours, Texas Border Gas Company, by (Signed) W. W. Stein, District Mgr.

[fol. 2124] South Texas Gas Company and Texas Border Gas Company

City of Laredo—Operating Statement

Twelve Months Ended March 31, 1932

Operating Revenues:	
Sale of Natural Gas:	
Residential Sales	$124,150.26
Commercial Sales	36,426.51
Industrial Sales	17,564.44
Government and Municipal Sales	2,302.28
Public Utilities—For Fuel	22,557.32
Reconnect Charges	1,820.40
Total Operating Revenues	$204,821.21
Operating Expenses:	
Production Expenses	$30,792.54
Transmission Expenses	13,616.56
Distribution Expenses	25,164.70
Utilization Expenses	563.10
Customers Expenses	13,551.05
New Business Expenses	8,077.66
General Expenses	28,160.16
Taxes	14,340.74
Total Operating Expenses	$134,266.51

[fol. 2125] The following document, marked Exhibit No. 8, offered by the Company, as shown on page 652, volume "A", at the October hearing before the Railroad Commission, in Laredo, was introduced as part of Defendant's Exhibit No. 13 upon the trial of this case, as appears at page 755, volume I, of this Statement of Facts.

Chas. E. Pickle, Official Reporter, District Court, 53rd Judicial District.

[fol. 2126] COMPANY'S EXHIBIT 8

Contract Between Texas Border Gas Company and Nuevo Laredo Gas Company

[fol. 2127] U-41. 11:1-. 8-10-31. Gas Purchase Contract

STATE OF TEXAS,
County of Webb:

This gas purchase and sales agreement made and entered into this 30th day of September, 1931, by and between Texas Border Gas Company, a corporation domiciled in Webb County, Texas, 'Seller', and Compania de Gas de Nuevo Laredo, S. A., domiciled in the City of Nuevo Laredo, State of Tamaulipas, Mexico, 'Buyer',

Witnesseth:

I

Seller, for and in consideration of the sum of Ten ($10.00) Dollars, the mutual covenants herein contained, and other good and valuable considerations, agrees to sell and deliver to Buyer, and Buyer agrees to purchase and receive from Seller all natural gas which Buyer shall distribute and sell in said City of Nuevo Laredo and environs for an original term of 3 Three years, commencing the First day of October, 1931, and ending the 30th day of September, 1934, and thereafter for successive periods of one (1) year, unless either party shall give written notice of intention to terminate to other party at least thirty (30) days prior to the time said original term or any one year renewal term hereof is to expire.

[fols. 2128-2130] II

The point of delivery of said gas shall be on the North bank of the Rio Grande River, at the outlets of Seller's meters located and used for the purpose of measuring such gas deliveries. Said gas shall be delivered at such pressure as may exist by reason of operating conditions, except that said pressure shall be maintained at not less than Twenty-Five (25) pounds per square inch.

. . . . . .

[fol. 2131] VI

For all natural gas delivered by Seller to Buyer hereunder, Buyer agrees to pay Seller the following prices:

(a) For natural gas delivered by Buyer to domestic consumers, Thirty ($.30) Cents per thousand cubic feet.

(b) For natural gas delivered by Buyer to consumers other than domestic consumers, Eighty-Five (85%) per cent of the price which each said consumer has agreed to pay Buyer for such gas; provided, however, that Buyer shall be obligated to pay Seller not less than Thirteen and Six-tenths ($.13-6/10) Cents per thousand cubic feet for such deliveries, except in those cases where sales by Buyer for less than Sixteen ($.16) cents per thousand cubic feet have been [fols. 2132-2134] first approved in writing by Seller.

(c) For unaccounted for gas, Sixteen ($.16) Cents per thousand cubic feet.

The term 'domestic consumers', as used in this contract, means all consumers using gas in domestic service and paying Buyer's domestic rate therefor, such service including the reasonable use thereof for heating, lighting and cooking in private houses, boarding houses, restaurants, apartment houses or flats, including those using gas for lighting and cooking only in hotels, bakeries and stores and for heating in hotels and buildings where separate rooms are heated by stoves, grates and other individually operated heating appliances.

Sales by Buyer to "other than domestic consumers", in order to take the price set forth in (b) hereof, shall conform in all respects to the classification of industrial sales used by Company in and about Laredo, Texas, and all such sales and sales contracts shall be subject to Company's approval as to classification.

The term 'unaccounted for gas', as used in this contract, means the difference between the total deliveries of gas by Seller to Buyer, as shown by Seller's meters located at the point or points of delivery on the north bank of the Rio Grande River, and the sum of the total deliveries of gas by Buyer to its consumers and the amount of gas consumed by Buyer for its own use.

* * * * * *

[fol. 2135] XI

This contract and all obligations and covenants hereof shall extend to and be binding upon the successors and assigns of the parties hereto.

In Testimony Whereof, the parties hereto have caused this agreement to be executed by their respective corporate officers, and their respective corporate seals to be hereto affixed, in duplicate originals, at Laredo, In Webb County, [fols. 2136-2137] Texas, on the day and year first above written.

Texas Border Gas Company, by [Signature illegible], Vice-President, 'Seller'.

Attest: Geo. D. Fiser, Assistant Secretary.

Compania de Gas de Nuevo Laredo, S. A., by M. S. Tamez, President, 'Buyer'.

Attest: D. Eck, Secretary.

[fol. 2138] COMPANY'S EXHIBIT No. 9

South Texas Gas Company and Compania Mexicana de Gas, S. A.

Agreement

This agreement made and entered into this 31st day of December, 1929, by and between South Texas Gas Company, a Delaware corporation, hereinafter called "Seller", as party of the first part, and Compania Mexicana de Gas, S. A., a Mexican corporation, hereinafter called "buyer", as party of the second part,

Witnesseth:

Whereas buyer is the owner of a natural gas pipe line extending from a point on Roma Bridge between Roma, Starr County, Texas, and San Pedro de Roma, Tamaulipas, Mexico (said point being on the international Boundary between Texas and Mexico) to the city of Monterrey, in the State of Nueva Leon, Mexico, where buyer has contracts for the sale and delivery of gas to consumers, and Buyers desires to purchase gas from Seller for the requirements of Buyer's said pipe line: and

Whereas Seller owns and controls a supply of natural gas in the Jennings Field in Zapata County, Texas and elsewhere in Texas, and owns a natural gas pipe line extending from said Jennings Field, in Zapata County, Texas, to connect with the said pipe line of Buyers at said point on the Roma Bridge, and Seller is willing to undertake to

sell and deliver gas to Buyer into Buyer's said pipe line in the amounts, for the price and upon the terms and conditions hereinafter set forth:

Now, Therefore, in consideration of the covenants and agreements hereinafter set forth to be kept and performed by the respective parties hereto, it is agreed by and between said parties as follows:

1

Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase and receive from Seller all of the natural gas to meet Buyer's requirements of gas for resale and delivery to its customers, except such gas as Buyer may be required to purchase from producers of gas in Mexico under the terms of the concession from the Mexican Government to Buyer.

2

The gas to be delivered hereunder shall be delivered by Seller to Buyer into Buyer's pipe line at said point on the International Boundary between Texas and Mexico and [fol. 2139] shall be delivered at a pressure sufficient to meet the Buyer's market requirements from time to time up to, but not exceeding, two hundred and seventy-five (275) pounds gauge per square inch, and measurement of gas so delivered shall be made at the measuring station which Seller has heretofore constructed on the Texas side of said boundary at a point near said Roma Bridge.

Said metering equipment heretofore installed by Seller shall be maintained in accurate repair by Seller and Seller will cause the meters to be read each day. The meters, meter readings and meter charts shall be at all reasonable times accessible to inspection and examination by Buyer. The meters shall be calibrated at least once each fifteen (15) days by and at the expense of the seller, but in the presence of a representative of Buyer if Buyer so elects. Readings, calibration and adjustment of Seller's meters and changing of charts shall be done only by Seller but all data with respect thereto shall at all reasonable times be accessible to Buyer. If, upon test, the percentage of inaccuracy shall be two per cent (2%) or more, the registrations thereof shall be corrected at the rate of such inaccuracy for any period which is definitely known and agreed upon, but in case the period is not definitely known

and agreed upon, then for a period extending back one-half the time elapsed since the last date of calibration. Following any test, metering equipment found inaccurate shall immediately be restored to a condition of accuracy. If for any reason any meter is out of service and/or out of repair so that the amount of gas delivered cannot be ascertained or computed from the reading thereof, the gas delivered during the period such meter is out of service or repair shall be estimated and agreed upon by the parties hereto, upon the basis of the best data available, using the first of the following methods which is feasible:

(a) By using the registration of Buyer's check meter, if installed and accurately registering.

(b) By correcting the error, if the percentage of error is ascertainable by calibration, test or mathematical calculation;

(c) By estimating the quantity of the delivery by deliveries during preceding periods under similar conditions when the meters were registering accurately.

Buyer may, at its option and expense, install and operate a check meter or meters to check Seller's meters, and such check meters shall be subject at all reasonable times to inspection or examination by Seller, but the reading, calibration and adjustment thereof and the changing of charts shall be done only by Buyer.

[fol. 2140] 3

The unit of measurement *ash*ll be one thousand (1000) cubic feet at a pressure of two (2) pounds above fourteen and four-tenths (14.4) pounds absolute, at a temperature of sixty degrees (60°) Fahrenheit and at six-tenths (6/10) specific gravity. Irrespective of the actual atmospheric pressure, flowing temperature and specific gravity, these factors shall be assumed to be as above stated, and the number of cubic feet of gas shown by Seller's meters, when so corrected, shall constitute the number of cubic feet of gas delivered to Buyer, and these computations are accepted by both parties hereto as the basis upon which bills are to be rendered and payments made.

4

The price which Buyer shall pay to Seller for gas delivered hereunder shall be determined in the following manner:

For all gas delivered by Seller under this agreement, it shall receive a fair and reasonable price. The price of the gas to be supplied by Seller, beginning with the month of January, 1930, shall be Fifteen Cents (15¢) per thousand cubic feet on the measurement basis above outlined (which is agreed to be a fair and reasonable price therefor), and such price shall continue until a change be demanded by either party, whereupon such price shall be fixed by mutual agreement of the parties hereto, or, if the parties are unable to agree upon such price, the same shall, upon the demand of either party, be fixed by arbitration. If they are unable to agree upon a single arbitrator, then each party shall name an arbitrator and the two so chosen shall name a third. The decision of any two such arbitrators shall be binding upon both parties and the price so fixed by such arbitrator or arbitrators shall continure from month to month without change, unless and until a new price shall be fixed by mutual agreement or by another like arbitration which either party may demand upon the same terms and conditions at any time. The above price of Fifteen Cents (15¢) per thousand cubic feet, which it is agreed is a fair and reasonable price at this time, is based on the cost of producing and purchasing gas in the field, the cost of operating wells and gathering systems, the cost of operating transmission lines and measuring stations, the cost of prividing standby connections to other sources of supply, the loss and leakage of gas between the put-in and delivery points, the maintenance of all physical properties used in rendering the service, depreciation and amortization on such physical pro-erties, taxed on such physical properties, and an amount to cover interest discount and contingencies on the investments made by Seller for the purpose of rendering the service equal to ten percent (10%) per annum on such investment. It is further agreed that the above [fol. 2141] factors shall be given consideration and proper weight in determining any further changes in the selling price of gas under this contract.

Buyer shall make payment to Seller on or before the twenty-fifth (25th) day of each month for all gas delivered hereunder during the preceding month on the basis of payment hereinafter provided.

5

The obligations of Seller hereunder are subject to the reservation of sufficient gas for each of the following:

(a) Drilling obligations;

(b) To perform obligations of Seller to deliver gas to fee owners under the terms of the leases held by Sellers;

(c) To perform the obligations of Seller under all contracts or commitments heretofore made by Seller, Provided, however, that gas required by Buyer for domestic purposes shall have priority over industrial gas supplied by Seller to Buyer under such contracts or commitments.

Nothing in this agreement shall in any way restrict the right of Seller at any time to sell, transport and deliver natural gas to others than Buyer, provided that Seller shall give this agreement prio-ity and preference over all contracts for the sale of gas entered into subsequent to the date of this agreement, except that gas supplied by Seller for domestic purposes shall at all times have prio-ity over industrial gas supplied hereunder.

6

In the event of either party being rendered unable wholly or in part by force majeure to carry out its obligations under this contract, other than the obligation to make payments of amounts due hereunder, it is agreed that on such party gibing notice and full particulars of such force majeure in writing or by telegraph to the other party as soon as possible after the occurrence of the cause relied on, then the obligations of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such case shall so far as possible be remedied with all reasonable dispatch. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraint of rulers and people, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, freezing of wells [fol. 2142] or lines of pipe, partial or entire failure of

natural gas wells, and any other causes, whether of the kind herein enumerated or otherwise, not within the control of the party claiming suspension, which by the exercise of due diligence such party shall not have been able to avoid.

7

This agreement shall continue and remain in force and effect until the 31st day of December, 1939, and thereafter until terminated by either party giving six (6) months written notice thereof to the other party.

8

Seller warrants the title to all gas delivered hereunder and agrees, if notified thereof by Buyer, to idemnify Buyer from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse legal claims of any and all persons to said gas.

9

The gas deliverable hereunder shall be natural gas as produced in its natural state from the wells, except that Seller may permit the extraction of natural gas gasoline, probiced that seller shall not subject said gas nor permit said gas to be subjected to treatment in the extraction of natural gas gasoline which shall substantially change the chemical composition of any of the component parts of said gas, permit or cause the admission of oxygen or which will dilute said natural gas. Seller is to tender delivery to Buyer only of natural gas which is of merchantable quality.

10

This agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

11

This agreement may be simultaneously executed in several counterparts and all such counterparts, executed and delivered, each as an original, shall constitute but one and the same instrument.

In Witness Whereof, the parties hereto have caused this agreement to be executed by their respective corporate

officers thereunto duly authorized and their respective corporate seals to be hereunto affixed, on the day and year first written above.

South Texas Gas Company, by ——— ———, President.

Attest: ——— ———, Secretary.

Compania Mexicana de Gas, S. A., by ——— ———, President.

Attest: ——— ———, Secretary.

[fol. 2143] COMPANY'S EXHIBIT 9—(2)

South Texas Gas Company and Compania Mexicana de Gas, S. A.

Amendment, January 23, 1932

[fol. 2144] Whereas, on the 31st day of December, 1929, a certain contract and agreement was made and entered into by and between South Texas Gas Company, a Delaware corporation, therein and hereinafter called "Seller," as party of the first part, and Compania Mexicana de Gas, S. A., a Mexican corporation, therein and hereinafter called "Buyer," as party of the second part, wherein and whereby Seller agreed to sell and deliver to Buyer and Buyer agreed to purchase and receive from Seller all of the natural gas to meet Buyer's requirements of gas for resale and delivery to its customers, except such gas as Buyer might be required to purchase from producers of gas in Mexico under the terms of the concession from the Mexican Government to Buyer, all as is fully set out in said contract and agreement of December 31, 1929, which is hereby referred to and made a part hereof for all purposes; and

Whereas Buyer and Seller desire to amend and supplement said contract so as to provide a different basis for determining the price to be charged by Seller and paid by Buyer for gas delivered under said contract:

Now, Therefore, in consideration of the premises and for the purpose of establishing by agreement the price to be paid for gas deliverable under said contract, it is agreed by and between said parties as follows:

[fol. 2145]

I

The price to be received by Seller from Buyer for all gas sold and delivered to Buyer by Seller under said above mentioned contract shall be determined by taking the cost of gas delivered into the pipe line of the Seller at Jennings Field Junction in Texas (such cost in no event to be less than five cents per thousand cubic feet), adding thereto the amount of the import tax per thousand cubic feet paid by Buyer to the Mexican Government, subtracting the resulting total from the average resale price received per thousand cubic feet for all gas sold by Buyer, and dividing the remaining balance between Buyer and Seller, such division to be based on the proportion that the distance gas is transported by Buyer and Seller, respectively, bears to the total distance from said Jennings Field Junction in Texas to the City of Monterrey, Mexico, and Seller's resulting proportionate amount of such remaining balance plus an amount equal to the average cost price per thousand cubic feet of all gas delivered into Seller's pipe line at said Jennings Field Junction (such average cost price in no event to be less than five cents per thousand cubic feet) shall constitute the price to be paid by Seller to Buyer for gas delivered hereunder.

II

This agreement shall be effective from and after January 1, 1931, and all accounts between Buyer and Seller repre-
[fol. 2146] senting gas delivered by Seller to Buyer since such date, shall be adjusted in accordance herewith.

III

Except as herein changed and amended, said original agreement of December 31, 1929, between Buyer and Seller shall be and remain in full force and effect for the entire term thereof.

IV

This agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

V

This agreement may be simultaneously executed in several counterparts and all of such counterparts, executed

and delivered each as an original, shall constitute but one and the same instrument.

In Witness Whereof, the parties hereto have caused this agreement to be executed by their respective corporate officers thereunto duly authorized and their respective corporate seals to be hereunto affixed on this, the 23 day of January, 1932.

South Texas Gas Company, by R. H. *Hargin* [Signature illegible], Vice President.

Attest: Geo. D. Fiser, Assistant Secretary.

Compania Mexicana de Gas, S. A., by H. E. Randall, Vice President.

Attest: J. *Bledzow* [Signature illegible], Sub. Secretary.

[fol. 2147] The following document, marked Exhibit No. 10, offered by the Company, as shown on page 677, volume "A", at the October hearing before the Railroad Commission, in Laredo, was introduced as part of Defendant's Exhibit No. 13 upon the trial of this case, as appears at page 755, volume I, of this Statement of Facts.

Chas. E. Pickle, Official Reporter, District Court, 53rd Judicial District.

[fol. 2148] COMPANY'S EXHIBIT 10

Agreement Between Southern Gas Company and South Texas Gas Company

[fol. 2149] This Agreement made and entered into, this 1st day of November, 1929, by and between Southern Gas Company, a Delaware corporation, having a permit to do business in Texas, hereinafter called "Southern", party of the first part, and South Texas Gas Company, a Delaware corporation, having a permit to do business in Texas, hereinafter called "South Texas", party of the second part,

Witnesseth:

Whereas, Southern is the owner of a gathering system in the Carolina-Texas Gas Field in Webb County, Texas, and has contracts for the purchase of gas from wells located

in said field, from which said wells it is now taking gas into said gathering system; and

Whereas, South Texas owns a gas pipe line extending from said Carolina-Texas Gas Field to the City of Laredo, Texas, and desires to make pipe line connections to the [fol. 2150] gathering system of Southern and purchase from Southern all gas which Southern may purchase from wells in said Carolina-Texas Gas Field and take into said gathering system;

Now, Therefore, for and in consideration of the covenants and agreements hereinafter set forth, to be kept and performed by the respective parties hereto, it is agreed by and between said parties as follows:

I

Southern agrees to maintain and keep in good repair its said gathering system in the Carolina-Texas Gas Field, and further agrees that it will from time to time negotiate for the purchase of gas from any wells which may be completed near its gathering system, and if satisfactory purchase arrangements can be made, will connect such wells into said gathering system.

II

Southern agrees that South Texas shall have the right to [fol. 2151] make necessary changes in said gathering system, and to take up and re-lay such parts of said gathering system as may be necessary to enable South Texas to make proper connection of its pipe line to said gathering system. Southern further agrees that South Texas shall have the right to reimburse itself for all expense incurred in making such necessary changes by withholding one-sixth (1/6) of the first monies accruing to Southern under this agreement, as hereinafter set out.

III

South Texas shall operate said gathering system and pay all the cost of such operation, including the blowing of wells, the furnishing of meter charts and the collecting and forwarding of said charts. Southern shall continue to maintain and repair said gathering system as well as all measuring equipment, shall make any and all new well connections and shall regularly calibrate all meters recording deliveries of gas into said gathering system.

[fol. 2152]

IV

Southern will continue, in its own name, to purchase and receive into said gathering system, and will account therefor to the owner of each respective well, all gas from wells now connected to said gathering system or which may hereafter be connected to said system.

V

In cases where gas wells owned by South Texas, or controlled by South Texas under gas purchase agreements, can be connected with the said gathering system of Southern, providing such gas can be taken through said gathering system more advantageously than such gas can be taken direct into the lines of South Texas (in order to avoid duplication of gathering lines in this Field), South Texas shall allow Southern to connect such wells to its gathering system and to transport said gas through said gathering system and deliver the same into the pipe line of South Texas. For all such gas so taken into said gathering system of Southern, South Texas shall pay Southern, as consideration for the use of said gathering system in transporting such gas, the sum of one cent (1¢) per thousand cubic feet, measured at two pounds above an assumed abso-
[fol. 2153] lute atmospheric pressure of fourteen and four-tenths (14.4) pounds per square inch.

VI

South Texas shall purchase and receive from Southern under this agreement all gas which may be received in said gathering system from all wells connected thereto (except gas taken from wells owned or controlled by South Texas), it being understood, however, that South Texas shall purchase and receive under this agreement an average minimum of two million cubic feet of gas daily, provided Southern is able to deliver that amount of gas from wells connected to said gathering system. The volume of gas delivered to South Texas hereunder shall be taken to be the combined total of all gas delivered from the wells into said gathernig system as measured at the wells (except gas taken from wells owned or controlled by South Texas), it being intended by this arrangement that South Texas will assume all loss from leakage in gathering lines. South Texas shall have the right to use said gathering system to the full capacity

thereof for the transportation and delivery of said gas from the wells to its pipe line system.

[fol. 2154] VII

For all gas which South Texas takes and receives from Southern hereunder, South Texas shall pay Southern at the rate of six cents (6¢) per thousand cubic feet measured at two pounds above an assumed atmospheric pressure of fourteen and four-tenths (14.4) pounds per square inch. Billing for this gas by Southern to South Texas shall be based upon the combined meter readings of each well delivering gas into said gathering system. Statements will be rendered by Southern to South Texas as quickly after the end of each month as practical, and payment shall be made by South Texas to Southern on or before the twentieth day of each month covering all gas taken during the preceding calendar month.

VIII

This agreement shall continue and remain in force as long as the wells which are connected with said gathering system or which may hereafter be connected therewith are capable of delivering gas into said gathering system in commercial quantities, unless sooner terminated by agreement of the parties hereto.

[fols. 2155-2163] IX

This agreement shall extend to and be binding upon the respective successors and assigns of the parties hereto.

In Witness Whereof, the parties hereto have executed this instrument in two counterparts, each of which shall constitute an original, as of the day and year first above written.

Southern Gas Company, by *L. A. Mordan*, Vice-President.

Attest [Signature illegible], Assistant Secretary.

South Texas Gas Company, by [Signature illegible], Vice-President.

Attest: Leo Wright, Assistant Secretary.

[fols. 2164-2167] [File endorsements omitted]

* * * * * * *

[fols. 2168–2170] CITY'S EXHIBIT "A"

General Summary and Allocation

	Cost New		Present Value
Gathering System	14672		11014
Transmission System	558290		392162
Distribution System	583192		478637
Total	1156154		881813
Less Land, Leases & Rights of Way	14809		14809
	1141345		867004
	22565		22565
	1118780	(75½%)	844439
Included with and incorporated in this amount as Expense of Purchase and Storage Deducted on account of being excessive	39320		29687
	1079460		814752
Allocated to Laredo 83.18%	897895	(75½%)	677711
(Prorated cost of construction)			
Preliminary & Organization Exp. 2%	17958		17958
Engineering & Supervision 2½%	22447		16943
Administration & Legal 1½%	13468		10166
Taxes during Construction ½%	4489		4489
Interest during Construction 3½%	31426		23720
Additional Allowance for Purchase & Storage	10000		7550
83.18% Land, Rights of Way, etc.	12318		12318
83.18% Material & Supplies	18770		18770
	1028771		789625
Working Cash			11157
Rate Base			800782

• • • • • • • •

[fols. 2171–2195] Gathering System

Summary

Acct. No.		Cost of Reproduction New	Less Depreciation
307	Rights-of-way	124	124
310	Field Regulating & Measuring Structures	239	215
311	Other Gathering System Structures	3,286	2,456
313	Field Lines	7,257	5,080
314	Field Regulating & Measuring Station Equipment	1,967	1,634
315	Other Gathering System Equipment:		
	A—Drips	444	368
	B—Choke Racks	432	346
	C—Furniture & Fixtures	174	122
	D—Automotive Equipment	140	78
	E—Tools & Equipment	61	43
	Total, Except Material and Supplies	14,124	10,466
	Material and Supplies	548	548
	Total—Gathering System	14,672	11,014

• • • • • • • •

[fols. 2196-2396] Transmission

Summary

	Cost New	Depr.
Acct. 316 Land	4,350	4,350
Acct. 318 Rights-of-way	9,985	9,985
Acct. 320 Transmission Regulating & Measuring Station Structures	2,235	1,979
Acct. 321 Other Transmission System Structures	19,997	13,256
Acct. 323 Transmission System Regulating and Measuring Station Equipment	11,185	9,692
Acct. 324 Transmission Line Equipment	481,485	327,394
Acct. 325 Other Transmission System Equipment:		
A—Farm Taps	104	88
B—Telephone System	21,806	19,625
C—Miscellaneous	246	209
D—Furniture & Fixtures	1,114	640
E—Automotive Equipment	1,606	804
F—Tools & Equipment	248	211
Total, Except Material & Supplies	554,361	388,233
Material & Supplies	3,929	3,929
Total—Transmission System	558,290	392,162

• • • • • • •

[fols. 2297-2416] Summary

Distribution—Laredo

Property Inside City Limits

	Cost New	Less Depr.
Acct. 326 Land	350	350
Acct. 329 District Regulator & Measuring Station Structures	727	582
Acct. 330 Other Distribution System Structures	1,132	898
Acct. 332 Measuring & Regulating Equipment	2,780	2,297
Acct. 333 Distribution Line Equipment—Intermediate Low Pressure	86,281 293,285	70,196 243,028
Acct. 334 Services:		
A—All except Industrial	80,986	64,789
B—Industrial	8,679	6,943
Acct. 335 & 336 Meters & Meter Installations (Inside City Limits)	62,201	49,761
Acct. 337 Service Regulators	608	486
Acct. 338 Other Distribution System Equipment:		
A—Industrial Installations	8,546	8,712
B—Furniture & Fixtures	10,285	7,824
C—Automotive Equipment	5,807	2,862
E—Tools & Equipment	2,427	1,821
Total, Except Material & Supplies	565,104	460,549
Acct. 338 Other Distribution System Equipment:		
D—Material & Supplies	18,088	18,088
Total—Distribution System—Laredo	583,192	478,637

• • • • • • •

[fols. 2417-2425] CITY'S EXHIBIT A

Supplement 2

General Summary and Allocation

	Cost New		Present Value
Gathering System	$14,672		$11,014
Transmission System	558,290		392,162
Distribution System	583,192		478,637
Total	$1,156,154		$881,813
Less: Land, Leases & Rights-of-Way	14,809		14,809
Balance	$1,141,345		$867,004
Materials & Supplies	22,565		22,565
	$1,118,780	(75½%)	$844,439
Included with and incorporated in this amount as Expense of Purchase and Storage deducted as being excessive	39,320		29,687
	$1,079,460	(75½%)	$814,752
Add Back Land, Leases & Right-of-way	14,809		14,809
Add for Purchases & Storage	10,000		7,550
	$1,104,269		$837,111
Allocated to Laredo 83.18%	918,531		696,309
Preliminary & Organization Expense—2%	18,371		18,371
Engineering & Supervision—2½%	22,963		17,408
Administration & Legal—1½%	13,778		10,445
Taxes During Construction—½%	4,593		4,593
Interest During Construction—3½%	32,149		24,371
83.18% Materials & Supplies	18,770		18,770
Total	$1,029,155		$790,267
Working Cash			11,157
			$801,424
Rate Base			9,274
Add			$810,698

[fol. 2426] CITY'S EXHIBIT "C"

STATE OF TEXAS,
County of Webb:

I, the undersigned, A. F. Muller, County Tax Collector of Webb County, Texas, do hereby certify that the records of my office disclose the following payments for ad valorem taxes made by the Border Gas Company for the years 1911 and 1912 in Webb County, Texas:

For the year 1911 on an assessed valuation of $42,075 the total tax paid was the sum of $438.28
(Receipt No. 1176).
For the year 1912 on an assessed valuation of $800 the tax paid was the sum of 8.13
(Receipt No. 927).
Also for the year 1912 on an assessed valuation of $57,135 the total tax paid was the sum of 580.87
(Receipt No. 928).

Dated at Laredo, Texas, this 15th day of May, A. D. 1934.
A. F. Muller, by B. G. Salinas, Deputy County Tax Collector, Webb County, Texas. (Seal Collector of Taxes, Webb County, Texas.)

[fols. 2426½-2433] STATE OF TEXAS,
County of Webb.

I, the undersigned, G. P. Farias, Tax Collector for the City of Laredo, do hereby certify that the records of this office disclose that on the 30th day of April, 1912 the Border Gas Company paid to this office the sum of $400.29 representing City of Laredo ad valorem taxes for the year 1911 on a valuation of said Company's properties in the sum of $25,825.00.

Dated at Laredo, Texas, this 10th day of May, 1934.
G. P. Farias, Tax Collector, City of Laredo, Webb County, Texas. (Seal City Tax Collector, Laredo, Texas.)

. . . . . .

(Here follows 1 paster, folios 2434-2435.)

[Docket No. 2434-2435]

CITY'S EXHIBIT "E"

Schedule No. 1

Border Gas Company, Texas Border Gas Company and South Texas Gas Company

Historical Cost of Fixed Capital as Shown by Company Books

Year		Historical Cost per Books: Additions	Retirements	Net Additions	Accumulated Additions	Depreciation per Books: Provision for Deprn. Charged to Operations	Less Charges to Reserve	Less Retirement Expense Charged to Operations	Accumulated Depr'n per Company Books	Adjusted Depreciation: Depr'n at 2%	Depr'n at 5%	Accumulated Depr'n at 2%	Accumulated Depr'n at 5%
	Border Gas Company:												
1909	Construction	$166,996.68		$166,996.68	$166,996.68								
1911	1- 1-11 to 12-31-11	29,241.36	$646.09	28,595.27	195,591.95					$3,625.88	$9,064.71	$3,625.88	$9,064.71
1912	1- 1-12 to 6-30-12	14,620.68	323.04	14,297.64	209,889.59					4,054.82	10,137.04	7,680.70	19,201.75
1913	6-30-12 to 6-30-13	13,003.21	174.09	12,829.12	221,718.71					4,326.06	10,815.21	12,006.78	30,016.96
1914	6-30-13 to 6-30-14	7,735.79	54.86	7,680.93	230,399.64					4,511.18	11,277.96	16,517.96	41,294.92
1915	6-30-14 to 6-30-15	5,737.40	1,825.71	3,911.69	234,311.33	$82,230.48		$1,664.04	$80,566.44	4,647.11	11,617.77	19,501.03	51,248.65
1916	6-30-15 to 6-30-16	123,532.92	11,134.27	111,398.65	345,709.98			8,731.52	71,834.92	5,800.22	14,500.54	16,569.73	57,017.67
1917	6-30-16 to 6-30-17	7,083.12	23,077.29	15,994.17*	329,715.81			19,318.90	52,516.02	6,754.26	16,885.65	4,005.09	54,584.42
1918	6-30-17 to 6-30-18	15,069.85	5,069.23	10,000.62	339,716.43	24,363.76		1,707.79	75,171.99	6,694.33	16,735.81	8,991.63	99,612.44
1919	6-30-18 to 6-30-19	14,643.45		14,643.45	354,359.88	36,380.98		797.99	110,754.98	6,940.76	17,351.91	15,134.40	88,166.36
1920	6-30-19 to 12-31-19	10,579.25		10,579.25	364,939.13	18,833.44		1,718.91	127,869.51	3,596.49	8,991.24	17,011.98	98,488.60
1920	1- 1-20 to 12-31-20	17,160.54		17,160.54	382,099.67	33,869.06	$483.44	182.99	161,072.14	7,470.30	18,675.96	23,815.94	111,443.23
1921	1- 1-21 to 12-31-21	12,452.82		12,452.82	394,552.49	32,319.67	2,168.77	1,727.84	189,495.20	7,766.52	19,416.30	27,685.55	126,967.91
1922	1- 1-22 to 12-31-22	179,713.71		179,713.71	574,266.20	40,326.61	873.02	653.22	228,295.57	9,688.19	24,220.48	35,847.80	149,662.13
1923	1- 1-23 to 12-31-23	141,584.26	13,085.96	128,498.30	702,764.50	52,921.93	7,718.91	8,570.93	264,627.66	12,770.30	31,925.77	33,028.26	164,936.06
1924	1- 1-24 to 12-31-24	73,489.21		73,489.21	776,253.71	61,341.64	5,712.71	1,191.53	319,085.06	14,790.18	36,975.46	39,914.29	196,089.28
1925	1- 1-25 to 12-31-25	131,192.98		131,192.98	907,446.69	69,856.79	3,700.11	3,561.41	381,680.33	16,837.00	42,092.51	49,489.68	220,909.27
1926	1- 1-26 to 12-31-26	56,161.43		56,161.43	963,608.12	77,644.23	673.13	537.05	458,094.38	18,710.54	46,776.37	66,990.04	275,496.46
1927	1- 1-27 to 12-31-27	34,307.27	9,056.79	25,250.48	988,858.60	81,514.07	21,589.20	1,108.09	516,911.16	19,524.66	48,811.67	65,817.41	301,580.24
1928	1- 1-28 to 4-10-28	26,366.02	8,712.49	17,653.53	1,006,512.13	23,001.68	8,471.63	85.50	531,355.71	5,542.53	13,856.35	60,802.81	306,890.06
	Total Book Costs of Properties Transferred to South Texas Gas Co.	$1,079,671.95	$73,159.82	$1,006,512.13	$1,006,512.13	$634,604.34	$51,390.92	$51,857.71	$531,355.71	$164,051.44	$410,128.69	$60,802.81	$306,890.06
	*South Texas Gas Company (S) and Texas Border Gas Company (T):												
1928	4-10-28 to 12-31-28 S	15,287.70	3,157.12	12,130.58)		15,414.40	1,284.00)						
	T	31,592.93	7,423.89	24,169.04)	1,042,811.75	8,408.95	5,090.25)		548,804.81	14,800.67	37,001.66	69,220.23	337,507.47
1929	1- 1-29 to 12-31-29 S	4,673.56	3,774.02	899.54)		21,558.83	158.32)						
	T	21,044.84	8,320.71	12,724.13)	1,056,435.42	11,947.44	1,205.43)		580,947.33	20,992.46	52,481.18	88,857.94	336,634.90
1930	1- 1-30 to 2-28-30 S	11,877.52		11,877.52)		3,883.21	)						
	T	3,275.69	643.50	2,632.19)	1,070,945.13	2,046.39	)		586,876.93	3,545.63	8,864.09	92,403.57	397,488.99
1930	3- 1-30 to 6-30-30 S	7,537.72		7,537.72)		6,744.09	)						
	T	7,374.03	205.21	7,168.82)	1,085,651.67	3,319.67	)		596,940.69	7,188.66	17,971.63	99,592.23	415,460.62
1931	7- 1-30 to 6-30-31 S	34,176.15	15,858.80	18,317.35)		12,336.90	269.90)						
	T	28,394.51	4,183.04	24,211.47)	1,128,180.49	4,715.78	1,501.63)		612,221.84	22,138.31	55,345.80	119,959.01	469,084.89
1932	7- 1-31 to 7-31-32 S	15,880.59	124,198.68	118,318.09)**		9,236.43	132,886.70)						
	T	40,092.11	1,100.86	38,991.25)	1,048,853.65	19,538.10	2,319.72)		505,789.95	24,868.31**	62,165.78**	9,618.90	396,994.35
	Totals	$1,300,879.30	$252,025.65	$1,048,853.65	$1,048,853.65	$753,754.53	$196,106.87	$51,857.71	$505,789.95	$257,583.48	$643,958.83	$99,618.90	$396,993.35

* Note.—Additions Indentified as Pertaining to Transmission Line from Jennings to Roma Eliminated.

** Note.—Transmission Lines Retired, New Lines not yet Charged into Capital Account, Depreciation Computed on Full Operating Balances. The Adjusted Computations for Depreciation are Inaccurate to the Extent that Land, Organization Costs and Rights of Way Are Included in the Computation.

[fols. 2436-2437] CITY'S EXHIBIT F

Witness Stein, identified. 3/13/34. H. B.
Witness Kinney, 11-16-32. H. B.
Pl. Exh. No. 7. — 3/15/34.

Laredo, Texas, June 26, 1923.

Capital Stock Tax Return, Form 707, 1923, for Taxable Period Ended June 30, 1923

Mr. G. R. Page, Houston, Texas.

DEAR SIR:

Copy of letter received from the office of the Commissioner of Internal Revenue requesting additional information in re above return, is enclosed.

A statement of Sinking Fund and Depreciation account of December 31, 1921 is also enclosed. Kindly advise explanation to be made regarding difference between book value and fair value shown on return.

The following explanation made to the Commissioner Feb. 25, 1921, regarding the difference in "Plant Account" on our 1920 and 1921 return will probably suffice to explain this account satisfactorily: "It represents property acquired at the time of organization of the Company in 1911 and included tangible property that originally cost $166,-966.68, as well as franchise, good will, etc., of a going concern. It is the opinion of the officers of the Company that the amount shown in the "Fair Value" column of our Capital Stock Tax Return was the true value of the property on the date reported."

Kindly advise in regard to the above, and oblige.

Yours very truly, (Signed) W. W. Stein.

WWS-SF.
TMT-GWF.

[fol. 2438] CITY'S EXHIBIT "G"

Witness Stein, identified 3/13/34. (Part of Ex. G.) H. B. Pl. Exh. No. 6 —3/15/34.

Laredo, Texas, April 14, 1921.

Income and Profits Tax Return Calendar Year 1918

Mr. G. R. Page, Houston, Texas.

DEAR SIR:

The enclosed copy of trial balance and copy of analysis of investment as of December 31, 1910, covers our record of property acquired by the old company prior to January 1, 1911 when the present accounts of Border Gas Company were begun. All vouchers and other records, I understand, were sent to Houston when the original plant was completed and turned over to Border Gas Company.

From information I have been able to obtain all of this property was purchased by the old company during the calendar year 1910, all of the construction work having been begun and completed during that year.

Trusting that this will enable you to prepare the statement, as outlined in your letter, I am

Very truly yours, (Signed) W. W. Stein.

WWS-SF.
TMT.

[fol. 2439] Ex. G. Witness Kinney, 11-16-32

Border Gas Company

Analysis of Investment

Statement	December 31, 1910
Real Estate	150.00
Rights of Way	10.93
Buildings	14.72
Tools	34.13
Fittings	17,364.05
Telephone Line from Reiser to Laredo	1,601.95
Labor, Teaming, Freight & Miscellaneous	31,718.83
Gas Receivers and Regulators	2,382.20
Gas Meters	5,791.00
Office Furniture	332.68
Horses and Wagons	225.00
Automobile	1,535.00

Line Pipe Size	Length Feet—Inches		
1"	3,039' 9"	130.49	
1¼"	3,034' 4"	177.04	
2"	28,905' 8"	2,684.66	
3"	34,562' 2"	5,527.21	
4"	89,203' 4"	22,316.43	
6"	36,672' 4"	13,032.26	
8"	128,649' 2"	71,838.25	
10¾"	2,213' 4"	1,862.03	
12¾"	155' 11"	163.64	
16"	150' 7"	208.60	
			117,940.61
Total Investment			179,101.10

179,101.10
166,996.68

12,104.42

[fols. 2440-2442] Border Gas Company

Balance Sheet Balance Sheet	December 31, 1910 December 31, 1910	
Investment	179,101.10	
Gas Ledger	648.23	
Warehouse Account	923.94	
Cash—Milmo National Bank	2,896.69	
Petty Cash	69.23	
Southern Trust Company		182,990.96
Gas Earnings		516.58
Producers Oil Company		131.65
	183,639.19	183,639.19

CITY'S EXHIBIT "H"

Border Gas Company, Texas Border Gas Company and South Texas Gas Company

Comparative Statement of Earnings

For the Seven Year Period Ended December 31, 1931

	Border Gas Company			*Border Gas to 4-10-28 Texas Border and South Texas to 12-31-28	Texas Border Gas Company* and South Texas Gas Company		
	1925	1926	1927	1928	1929*	1930*	1931*
Operating Revenues—							
Gas Sales	$355,306.82	$394,649.89	$343,667.22	$365,046.74	$385,520.48	$393,528.78	A$305,434.58
Forfeited Discounts	5,898.54	7,310.69	9,190.13	9,741.74	10,548.18	11,555.81	.....
Other Operating Revenues	3,224.80	5,789.29	5,722.63	2,049.74	2,265.32	2,436.00	2,317.30
Total Operating Revenues	$364,428.16	$407,749.87	$358,579.98	$376,838.22	$398,333.98	$407,520.59	$307,751.88
Operating Expenses—							
Gas Purchases	$137,041.67	$136,411.81	$105,197.89	$80,309.28	$76,360.89	$76,896.60	$47,507.45
Transmission and Distribution Operations	19,146.90	22,144.21	23,883.67	25,679.64	25,630.23	32,572.96	28,650.31
Transmission and Distribution Maintenance	11,246.79	10,727.37	10,653.31	10,142.41	7,524.96	13,117.14	20,308.23
General Expense	28,125.18	32,416.14	26,723.93	41,965.87	78,072.18	55,041.88	61,864.78
Taxes—Other than Income	9,845.02	15,483.12	11,386.29	10,172.09	14,968.80	17,240.10	17,959.05
Total Operating Expenses	$205,515.56	$217,172.65	$180,794.09	$168,270.29	$197,557.14	$194,570.68	$170,789.77
Net Return Before Providing for depreciation or Federal Income Tax	$158,912.60	$190,577.22	$177,785.89	$208,567.93	$200,776.84	$212,949.96	$136,962.11

* Operations of Monterrey Line Eliminated from Revenues and Expenses of South Texas Gas Company in Consolidating Operations with Texas Border Gas Company.

A—1931 Gas Sales include Forfeited Discounts.

(Here follows one paster, side folio 2444)

[Ex. 2444]

Border Gas Company
Statement of Earnings
From January 1, 1911 to December 31, 1924

	1-1-11 to 6-30-12	Fiscal Year Ended June 30th 1913	1914	1915	1916	1917	1918	1919	7-1-19 to 12-31-19	Year Ended December 31st 1920	1921	1922	1923	1924
Operating Revenues:														
Gas Earnings (net)	$70,023.75	$59,537.98	$52,047.80	$45,923.73	$33,526.13	$49,962.91	$76,756.42	$91,261.83	$43,618.27	$123,472.75	$139,963.01	$148,689.03	$150,114.24	$179,304.95
Premium Earnings	.....	.....	.....	3,459.85	16.79	1,736.18	1,105.66	1,705.37	2,229.41	3,859.45	1,579.86	1,494.52	.....	995.78
Other Operating Revenues	.....	.....	.....	10.74	341.71	248.76	84.33	.....	1,879.10	44.53	.....	77.08	74.23	198.17
Total Operating Revenues	$70,023.75	$59,537.98	$52,047.80	$49,394.32	$33,884.63	$51,949.85	$77,946.43	$92,967.20	$47,726.78	$137,406.76	$141,562.87	$150,260.63	$150,188.47	$180,498.90
Operating Expenses:														
Production and Distribution Operations	$9,419.79	$5,332.81	$4,668.56	$5,053.43	$5,531.00	$6,506.53	$6,428.87	$7,924.29	$4,769.62	$12,891.62	$15,431.05	$16,066.08	$19,261.78	$17,482.51
Production and Distribution Maintenance	1,060.22	955.67	6,854.69	809.95	5,780.56	13,846.66	7,833.70	10,699.45	2,659.83	6,047.97	5,109.93	7,731.71	14,019.11	14,277.41
General Expense	11,152.14	7,909.39	7,029.36	8,210.90	9,310.13	10,197.93	11,970.32	13,559.28	7,995.53	17,945.76	19,804.66	22,891.85	24,280.95	24,980.11
Taxes	2,205.70	1,728.76	2,488.77	2,205.72	2,444.63	1,948.97	2,151.49	2,083.72	1,574.36	3,900.25	5,817.26	9,310.85	13,018.95	6,280.13
Total Operating Expenses	$23,837.85	$15,926.63	$21,011.40	$16,280.00	$23,066.32	$32,500.09	$28,384.38	$33,606.84	$17,002.64	$40,685.61	$49,162.90	$55,990.54	$70,571.79	$82,910.16
Earnings Before Providing for Depreciation and Income Tax	$46,185.90	$43,611.35	$31,036.40	$33,114.32	$10,829.31	$19,449.76	$49,562.05	$59,460.36	$30,724.14	$96,721.15	$92,399.97	$94,270.04	$79,616.68	$117,588.74

[Vol. 2445]

Texas Border Gas Company

Statement of Earnings

April 10, 1928 to December 31, 1931

	Apr. 10, 1928 to Dec. 31, 1928	Year Ended Dec. 31, 1929	Year Ended Dec. 31, 1930	Year Ended Dec. 31, 1931
Operating Revenues:				
Gas Sales	$233,476.66	$385,520.48	$393,002.38	$301,430.03*
Forfeited Discounts	7,611.64	10,548.18	11,555.81	.....
Other Operating Revenues	1,760.09	2,265.32	2,436.00	2,317.30
Total Operating Revenues	$242,848.39	$398,333.98	$406,994.19	$303,747.33
Operating Expenses:				
Gas Purchases	$148,501.37	$222,117.56	$252,649.56	$161,330.20
Distribution System Operations	14,341.19	19,227.05	23,270.94	14,574.89
Distribution System Maintenance	3,527.35	8,672.73	9,005.13	15,617.80
General Expense	17,717.27	35,210.13	37,047.65	54,936.40
Taxes—Other than Federal Income	5,353.53	10,995.81	13,016.22	13,600.17
Total Operating Expenses	$189,440.71	$296,423.28	$335,089.50	$260,358.96
Net Return on Invested Capital Before Providing for Depreciation	$53,407.68	$101,910.70	$71,904.69	$43,388.37

* Includes Forfeited Discounts.

1379

[fol. 2446]

South Texas Gas Company

Statement of Earnings

From April 10, 1928 to December 31, 1931

	Apr. 10, 1928 to Dec. 31, 1928	Year Ended Dec. 31, 1929	Year Ended Dec. 31, 1930	Year Ended Dec. 31, 1931
Operating Revenues:				
Gas Sales to Texas Border Gas Co.	$148,501.87	$222,117.55	$222,649.55	$161,330.20
Gas Sales to Cia. Mexicana de Gas	.....	2,790.30	226,446.50	192,162.46
Gas Sales to Right-of-Way Consumers	.....	.....	526.40	4,004.55
Total Operating Revenues	$148,501.87	$224,907.85	$456,622.45	$357,497.21
Operating Expenses:				
Gas Purchases	$48,766.83	$77,200.99	$161,566.15	$137,291.25
Transmission System Operations	4,026.08	6,288.18	20,219.78	19,282.40
Transmission System Maintenance	4,248.20	8,652.25	9,088.21	10,207.45
General Expenses	16,461.37	27,762.05	27,962.40	17,289.76
Taxes	1,818.56	4,048.05	9,281.22	9,577.86
Total Operating Expenses	$75,324.99	$120,201.52	$228,094.76	$193,648.72
Net Return on Invested Capital Before Providing for Depreciation	$73,176.48	$95,706.34	$218,527.70	$163,848.49

Note.—Gas Purchases Computed at 5¢ per 1000 M.C.F.

(Here follows one photo, side folio 2447.)

[Rule 2445-2450]

Curr's Exhibit "L"

South Texas Gas Company and Texas Border Gas Company

Consolidated Statements of Earnings

From Operations Within the City Limits of Laredo

For the Years Ended June 30, 1929, 1930, 1931 and July 31, 1932

	Year Ended June 30,			Year Ended July 31,
	1929	1930	1931	1932
Operating Revenues:				
Gas Sales	$281,320.97	$319,473.23	$254,153.13	$192,349.13*
Forfeited Discounts	7,899.28	8,451.06	7,176.81	.....
Other Operating Revenues	1,485.37	1,668.51	1,663.36	2,106.96
Total Operating Revenues	$290,705.62	$329,592.80	$262,993.30	$194,456.09
Operating Expenses:				
Gas Purchases	$56,122.05	$62,233.80	$50,412.75	$23,561.10
Transmission System Operations	4,473.46	8,779.63	4,727.45	3,167.15
Transmission System Maintenance	5,345.23	3,041.39	2,827.61	1,737.74
Distribution System Operations	17,515.98	19,318.45	13,701.53	11,561.45
Distribution System Maintenance	3,773.79	5,554.47	8,299.11	12,506.66
Customers' Expense	.....	.....	8,618.47	15,367.28
New Business Expense	1,872.74	3,414.56	4,035.28	4,615.33
General Office and General Expense	41,520.51	50,577.60	25,117.95	29,884.60
Taxes Other than Income Tax	10,619.67	14,341.39	15,560.58	12,738.30
Other Operating Expense	.....	.....	962.96	.....
Total Operating Expenses	$141,253.38	$167,261.38	$133,644.64	$114,149.62
Net Return Before Provision for Depreciation or Income Tax	$149,452.24	$162,331.42	$129,347.66	$80,306.47

* Includes Forfeited Discount.

1931

[Exh. 245]

South Texas Gas Company

Statement of Earnings for the Year Ended June 30, 1929

	Total	Other Towns	Laredo		
			Total	Outside City	Inside City
Operating Revenues:					
Gas Sales	$211,067.96	$13,887.56	$197,680.40	$28,149.32	$169,531.08
Operating Expenses:					
Gas Purchases	$70,201.12	$3,804.98	$66,396.24	$10,884.19	$55,122.05
Transmission System Operations	5,894.62	279.17	5,615.45	841.99	4,673.46
Transmission System Maintenance	6,694.86	333.58	6,361.30	1,006.07	5,345.23
New Business Expense	753.39	40.49	695.90	97.23	598.68
General Expense	27,791.64	1,761.69	26,029.95	3,707.40	22,322.55
Taxes--Other than Income Tax	8,488.20	575.11	7,913.18	486.90	7,426.28
Total Operating Expenses	$114,473.84	$6,801.22	$107,672.62	$16,634.27	$91,318.25
Net Return Before Providing for Depreciation and Income Tax	$96,594.14	$6,886.34	$89,707.78	$11,494.95	$78,213.83

[Vol. 2452]

South-Texas Gas Company

Statement of Earnings for the Year Ended June 30, 1930

	Total	Monterrey Line	Laredo District Lines			
			Other Towns	Laredo		
				Total	Outside City	Inside City
Operating Revenues:						
Gas Sales	$339,350.51	$288,718.85	$16,634.54	$324,007.12	$31,294.95	$192,712.17
Operating Expenses:						
Gas Purchases	$114,094.02	$96,121.46	$4,226.58	$73,695.98	$11,423.09	$62,272.89
Transmission System Operations	15,966.71	4,576.61	587.76	10,392.34	1,613.71	8,778.63
Transmission System Maintenance	5,292.53	1,585.40	207.07	3,500.06	458.67	3,041.39
New Business Expense	660.62	126.05	34.56	499.99	65.61	434.38
Customers' Expense	89.47	24.10	4.52	60.85	8.50	52.35
General Expense	42,260.27	11,864.33	2,184.64	28,421.31	4,109.73	25,311.58
Taxes—Other than Income Tax	7,682.70	2,825.53	304.58	4,712.59	696.60	4,015.99
Total Operating Expense	$186,986.32	$156,963.47	$7,650.06	$122,332.82	$18,473.91	$103,848.91
Net Return Before Providing for Depreciation and Income Tax	$142,364.19	$131,755.38	$8,974.51	$101,684.30	$12,821.04	$88,863.26

1863

[fol. 2453]

South Texas Gas Company

Statement of Earnings for the Year Ended June 30, 1931

	Total	Misc. Sales	Monterrey Line	Laredo District		
				Other Towns	Laredo	
					Outside City	Inside City
Operating Revenues:						
Gas Sales	$499,302.09	$2,437.20	$304,742.25	$15,663.14	$30,539.69	$145,919.81
Operating Expenses:						
Gas Purchases	$165,928.85	$575.19	$101,051.05	$4,014.00	$12,885.86	$50,412.75
Transmission System Operations	18,416.23	53.41	12,049.74	377.53	1,208.10	4,727.45
Transmission System Maintenance	11,015.24	31.95	7,207.27	225.81	722.60	2,827.61
General Office and General Expense	23,931.82	112.36	13,995.29	720.06	1,403.43	6,700.66
Taxes—Other than Income Tax	9,849.13	23.27	5,934.76	351.06	669.92	2,870.12
Other Expenses	41.89	.12	27.41	.86	2.75	10.75
Total Operating Expense	$231,193.16	$796.30	$140,265.52	$5,689.32	$16,892.66	$67,549.36
Net Return Before Providing for Depreciation and Income Tax	$268,108.93	$1,640.90	$164,476.73	$9,973.82	$13,647.03	$78,370.45

[fol. 2454]

South Texas Gas Company

Statement of Earnings for the Year Ended July 31, 1932

				Texas Border Gas Company			
					Laredo		
	Total	Misc. Sales	Monterrey Line	Other Towns	Total	Outside City	Inside City
Operating Revenues:							
Gas Sales	$300,211.57	$5,385.25	$177,455.14	$10,692.72	$115,678.46	$20,443.51	$95,230.95
Rent Revenue	122.74	1.94	75.24	3.85	41.71	7.38	34.33
Total Operating Revenues	$300,334.31	$5,387.19	$177,530.38	$10,696.57	$115,720.17	$20,450.89	$95,264.28
Operating Expenses:							
Gas Purchases	$115,496.85	$1,982.40	$81,892.10	$2,261.95	$29,460.40	$6,776.75	$22,703.65
Transmission and Gathering System Exp.	16,504.16	269.12	11,843.38	288.82	4,112.84	945.69	3,167.15
Transmission and Gathering System Maintenance	9,159.69	143.81	6,572.99	160.30	2,282.59	524.85	1,757.74
General Office and General Expense	18,545.47	293.02	11,366.37	582.33	6,301.75	1,114.58	5,187.17
Taxes	8,582.27	166.14	5,176.35	319.80	2,919.98	613.05	2,306.93
Total Operating Expenses	$168,288.44	$2,724.49	$116,853.19	$3,613.20	$45,097.56	$9,974.92	$35,122.64
Net Return Before Providing for Depreciation	$141,045.87	$2,662.70	$60,677.19	$7,083.37	$70,622.61	$10,480.97	$60,141.64

1956

[fol. 2455]

Texas Border Gas Company

Statement of Earnings for the Year Ended June 30, 1929

			Gas Operations			
				Laredo		
	Total	Mdse. & Jobbing	Other Towns	Total	Outside City	Inside City
Operating Revenue:						
Gas Sales	$364,500.18	.....	$30,898.11	$333,602.07	$52,281.10	$281,320.97
Forfeited Discounts	10,294.88	.....	887.92	9,366.96	1,467.68	7,899.28
Other Operating Revenues	1,924.55	.....	163.20	1,761.35	275.98	1,485.37
Merchandise & Jobbing Revenues	26,441.83	$26,441.83	.....	.....	.....	.....
Total Operating Revenues	$403,101.44	$26,441.83	$31,929.23	$344,730.38	$54,024.76	$290,705.62
Operating Expenses:						
Gas Purchases	$211,067.96	.....	$13,387.56	$197,680.40	$28,149.32	$169,531.08
Distribution System Operations	20,567.60	.....	2,433.45	18,154.15	638.22	17,515.93
Distribution System Maintenance	4,435.58	.....	524.29	3,911.29	137.50	3,773.79
New Business Expense	1,790.03	$116.77	140.96	1,532.28	286.52	1,245.76
General Expense	26,619.33	1,746.26	2,108.29	23,765.23	3,567.07	19,198.26
Taxes—Other than Income Tax	9,124.66	.....	514.36	8,610.32	446.93	8,163.39
Merchandise & Jobbing Costs and Expense	22,862.51	22,862.51	.....	.....	.....	.....
Total Operating Expenses	$296,478.26	$24,725.54	$19,108.95	$252,643.77	$33,177.56	$219,466.21
Net Return Before Providing for Depreciation and Income Tax	$106,623.18	$1,716.29	$12,820.28	$92,086.61	$20,847.20	$71,239.41

Texas Border Gas Company

Statement of Earnings for the Year Ended June 30, 1930

	Total	Mdse. & Jobbing	Gas Operations			
			Other Towns	Laredo		
				Total	Outside City	Inside City
Operating Revenues:						
Gas Sales	$415,512.32	.....	$38,430.60	$377,081.72	$57,608.49	$319,473.23
Forfeited Discounts	10,991.11	.....	1,016.66	9,974.45	1,523.37	8,451.08
Other Operating Revenues	2,170.00	.....	200.73	1,969.27	300.76	1,668.51
Merchandise and Jobbing Revenues	28,220.19	$28,220.19	.....	.....	.....	.....
Total Operating Revenues	$456,893.62	$28,220.19	$39,648.01	$389,025.42	$59,432.62	$329,592.80
Operating Expenses:						
Gas Purchases	$240,631.66	.....	$16,624.54	$224,007.12	$31,294.95	$192,712.17
Distribution System Operations	23,020.08	.....	3,024.84	19,995.24	676.79	19,318.45
Distribution System Maintenance	5,618.77	.....	869.71	5,749.06	194.59	5,554.47
New Business Expense	4,173.11	$257.48	382.22	3,533.40	542.92	3,010.48
General Expense	34,961.08	2,156.48	3,083.75	29,760.80	4,547.13	25,213.67
Taxes—Other than Income Tax	11,556.07	.....	656.72	10,899.35	583.96	10,315.40
Merchandise & Jobbing Costs and Expense	24,617.16	24,617.16	.....	.....	.....	.....
Total Operating Expenses	$345,567.53	$27,031.12	$24,571.79	$293,964.97	$37,840.33	$256,124.64
Net Return Before Providing for Depreciation and Income Tax	$111,325.74	$1,189.07	$15,076.22	$95,060.45	$21,592.29	$73,468.16

1937

[fol. 2457]

Texas Border Gas Company

Statement of Earnings for the Year Ended June 30, 1931

	Total	Mdse. & Jobbing	Gas Operations		
			Other Towns	Laredo Outside City	Laredo Inside City
Operating Revenues:					
Gas Sales	$340,739.14	.....	$32,313.10	$54,273.91	$254,152.13
Forfeited Discounts	9,621.68	.....	912.14	1,532.73	7,176.81
Other Operating Revenues	2,230.00	.....	211.40	355.24	1,663.36
Merchandise and Jobbing Sales	37,271.88	$37,271.88	.....	.....	.....
Total Operating Revenues	$389,862.70	$37,271.88	$33,436.64	$56,161.88	$262,992.30
Operating Expenses:					
Gas Purchases	$192,122.64	.....	$15,663.14	$30,539.69	$145,919.81
Distribution System Operations	16,664.48	.....	2,388.02	574.93	13,701.53
Distribution System Maintenance	10,082.84	.....	1,444.87	347.86	8,290.11
Customers' Expense	10,482.21	.....	1,502.10	361.54	8,618.47
New Business Expense	5,981.73	$571.85	513.23	861.37	4,035.28
General Office and General Expense	13,914.60	1,330.24	1,193.87	2,003.70	9,386.79
General Expense—Divisional	13,386.42	1,279.74	1,148.56	1,927.55	9,030.43
Taxes—Other than Income Tax	14,390.78	.....	982.33	778.04	12,630.41
Merchandise and Jobbing Costs and Expense	34,360.50	34,360.50	.....	.....	.....
Other Operating Expenses	428.37	.....	61.39	14.77	352.21
Total Operating Expenses	$311,814.58	$37,542.33	$24,847.51	$37,409.60	$212,015.09
Net Return Before Providing for Depreciation and Income Tax	$78,048.12	$270.45†	$8,589.13	$18,752.23	$50,977.21

† Red in copy

Texas Border Gas Company

Statement of Earnings for the Year Ended July 31, 1932

	Total	Mdse. & Jobbing	Other Towns	Laredo City Gate	Less: Outside City Limits	Operations Inside City Limits
Operating Revenues:						
Gas Sales	$256,137.08	.....	$25,155.73	$230,981.30	$38,632.17	$192,349.13
Reconnect Charges	2,183.40	.....	301.53	1,881.87	73.14	1,808.73
Rent Revenues	175.50	.....	.....	175.50	.....	175.50
Miscellaneous Operating Revenues	109.12	.....	15.07	94.05	3.65	90.40
Merchandise and Jobbing Sales	10,780.60	$10,780.60	.....	.....	.....	.....
Total Operating Revenues	$269,385.65	$10,780.60	$25,472.33	$233,132.72	$38,708.96	$194,423.76
Operating Expenses:						
Gas Purchases	$126,218.63	.....	$10,692.72	$115,525.91	$20,448.51	$95,077.40
Distribution System Operations	13,956.38	.....	1,927.38	12,029.00	467.54	11,561.46
Distribution System Maintenance	15,097.36	.....	2,084.94	13,012.42	505.76	12,506.66
Customers' Expense	18,550.55	.....	2,561.83	15,988.72	621.44	15,367.28
New Business Expense	6,966.06	$255.80	804.98	5,934.20	918.97	4,615.23
General Office and General Expense	20,122.54	804.90	1,908.59	17,414.05	2,891.61	14,522.44
General Expense—Divisional Operations	14,099.64	668.95	1,333.73	12,200.96	2,025.97	10,174.99
Taxes	12,272.06	.....	1,183.15	11,188.91	707.54	10,481.37
Merchandise & Jobbing Expenses	15,670.82	15,670.82	.....	.....	.....	.....
Total Operating Expenses	$242,382.06	$17,295.47	$22,342.32	$203,844.27	$28,587.34	$174,256.93
Net Return Before Providing for Depreciation	$27,003.59	$6,514.87†	$3,280.01	$30,288.45	$10,121.62	$20,166.83

† Red in copy.

1932

[Fol. 2456]

South Texas Gas Company and Texas Border Gas Company

Summary of Questionable Items Contained in Consolidated Statements of Earnings from Operations in City Limits of Laredo

	Year Ended June 30,			Year Ended July 31,
	1929	1930	1931	1932
Management Fees	$7,686.27	$11,811.62	$8,220.51	$1,815.05
Loss on Bad Debts	728.30	2,138.14	1,224.50	2,274.47
Advertising	1,263.76	2,891.36	1,483.54	2,054.63
General Office Expenses Prorated from United Gas Company	.....	.....	9,269.98	12,269.27
Special Projects Furnished from United Gas Company	.....	.....	5,093.35	3,191.39
General Expenses Prorated from Southern Gas Company	.....	.....	718.76	1,892.01
Maintenance of General Structures—United Gas Company	.....	.....	.....	434.42
Donations	.....	.....	.....	447.72
Testing Distribution Mains	.....	.....	.....	848.35
Laredo State Chain Expense	.....	.....	.....	1,563.33
General Expenses Prorated from United Production Co.	.....	.....	.....	183.04
Totals	$9,668.33	$16,841.54	$26,198.69	$27,247.05

[Col. 2660]

South Texas Gas Company

Questionable Items Contained in Operating Statements

Years Ending June 30, 1929, 1930, 1931 and July 31, 1932

		Total	Per Cent Allocated to Laredo	Amount Allocated to Laredo
Year Ended June 30, 1929:				
Management Fees	General Expense	$3,178.92	80.52%	$2,558.32
Year Ended June 30, 1930:				
Management Fees	General Expense	$7,486.84	38.51	$4,368.52
Year Ended June 30, 1931:				
Management Fees	General Expense	$2,985.80	29.22	$857.84
General Office Expense Prorated	" "	7,051.76	29.22	2,060.58
Special Payrolls—United	" "	5,541.80	29.22	1,619.21
General Expense—Southern Gas Co.	" "	1,985.22	29.22	580.08
Total		$17,514.60		$5,117.76
Year Ended July 31, 1932:				
Management Fees	General Expense	$1,982.79	27.97%	$554.62
General Office Expense Prorated	" "	10,688.60	27.97	2,988.60
Maintenance General Structures	" "	387.66	27.97	108.43
General Expense—Southern Gas Co.	" "	3,208.47	27.97	895.33
General Expense—United Prod. Co.	" "	560.38	27.97	156.94
Total		$16,152.90		$4,517.97

1931

[fols. 2461-2462]

Texas Border Gas Company

Questionable Items Contained in Operating Statements

Years Ended June 30, 1929, 1930, 1931 and July 31, 1932

		Total	Per Cent Allocated to Laredo	Amount Allocated to Laredo
Year Ended June 30, 1929:				
Management Fees	General Expense	$7,075.64	72.12%	$5,102.95
Loss on Bad Debts	" "	1,002.91	72.12	723.30
Advertising	New Bus. "	1,750.66	72.12	1,263.76
Total		$9,829.21		$7,110.01
Year Ended June 30, 1930:				
Management Fees	General Expense	$10,268.57	72.14	$7,406.00
Loss on Bad Debts	" "	2,963.57	72.14	2,138.14
Advertising	New Bus. "	3,582.33	72.14	2,581.58
Total		$16,850.17		$12,155.72
Year Ended June 30, 1931:				
Management Fees	General Expense	$2,020.56	67.46	$1,363.07
Loss on Bad Debts	Customers' "	1,874.80	82.23	1,204.80
Advertising	New Bus. "	2,216.18	67.46	1,495.04
General Office Expense Prorated	General "	10,879.63	67.46	7,339.40
Special Payrolls—United Gas Co.	" "	5,114.06	67.46	3,449.94
General Expense Prorated—Southern Gas Co.	" "	205.57	67.46	138.68
Total		$22,010.80		$15,060.93

Year Ended July 31, 1932:

Management Fees	General Expense		$1,735.98	72.17	$1,253.04
Loss on Bad Debts	Customers'	"	3,343.19	82.84	2,773.64
Loss on Bad Debts	General	"	139.72	72.17	100.83
Advertising	New Bus.	"	2,845.93	72.17	2,054.63
General Office Expenses Prorated	General	"	13,293.22	72.17	9,595.77
Maintenance General Structures	"	"	451.57	72.17	325.99
General Expense Prorated—Southern Gas Company	"	"	1,264.56	72.17	912.63
Special Payrolls—United Gas Co.	"	"	4,370.59	72.17	3,154.26
Donations	"	"	343.16	72.17	247.66
Donations	Dis't. System Operations		241.50	82.84	200.06
Testing Mains for Leaks	Dis't. System Operations		1,016.84	82.84	842.35
Laredo Rate Case Expense	General Expense		1,859.94	72.17	1,342.52
Total			$30,961.30		$23,239.06

1933

[fols. 2463-2464] [File endorsements omitted]

[fol. 2465] CITY'S EXHIBIT "J"

6" MAIN TRA
FROM JENNIN
PESCADITO

TRANSMISSION L
NINGS GAS FIELD
ITO JUNCTION

LINE
D TO

DATE OF INVENTO
VENTORY MARCH 12, 1931

ENGINEERING DEPARTMENT

SAN ANTONIO, TEXAS

Item	Quantity	Kind	Size	Value	Corr. by Date
Gate Valve	1	Darling F.E.N.R.S	8" 300#		C.Y. 3-12-31
" "	1	Westcott F.E.N.R.S	8" 300#		C.Y. 3-12-31
" "	1	Westcott F.E.N.R.S	8" 300#		C.Y. 3-12-31
" "	1	Pittsbourgh S.E.N.R.S	8" 300#		C.Y. 3-12-31
" "	5	Westcott S.E.N.R.S	6" 300#		C.Y. 3-12-31
" "	4	Westcott S.E.N.R.S	4" 300#		C.Y. 3-12-31
" "	2	Westcott F.E.N.R.S	8" 300#		C.Y. 3-12-31
" "	2	Westcott S.E.N.R.S	4" 300#		C.Y. 3-12-31
Plug Valve	2	Nordstrom	4" 250#		C.Y. 3-12-31
Gate Valve	5	Westcott S.E.N.R.S	2" 300#		C.Y. 3-12-31
" "	1	Westcott S.E.N.R.S	2" 300#		C.Y. 3-12-31
" "	1	Lunkenheimer S.E.N.R.S	1" 150#		C.Y. 3-12-31
Swedge	6		6"x8"		C.Y. 3-12-31
"	1		4"x8"		C.Y. 3-12-31
"	5		4"x6"		C.Y. 3-12-31
Expention Sleeve	5		8"		C.Y. 3-12-31
" "	2		6"		C.Y. 3-12-31
" "	1		4"		C.Y. 3-12-31
Robinson Check Valve	1		6"		C.Y. 3-12-31
" "	1		4"		C.Y. 3-12-31

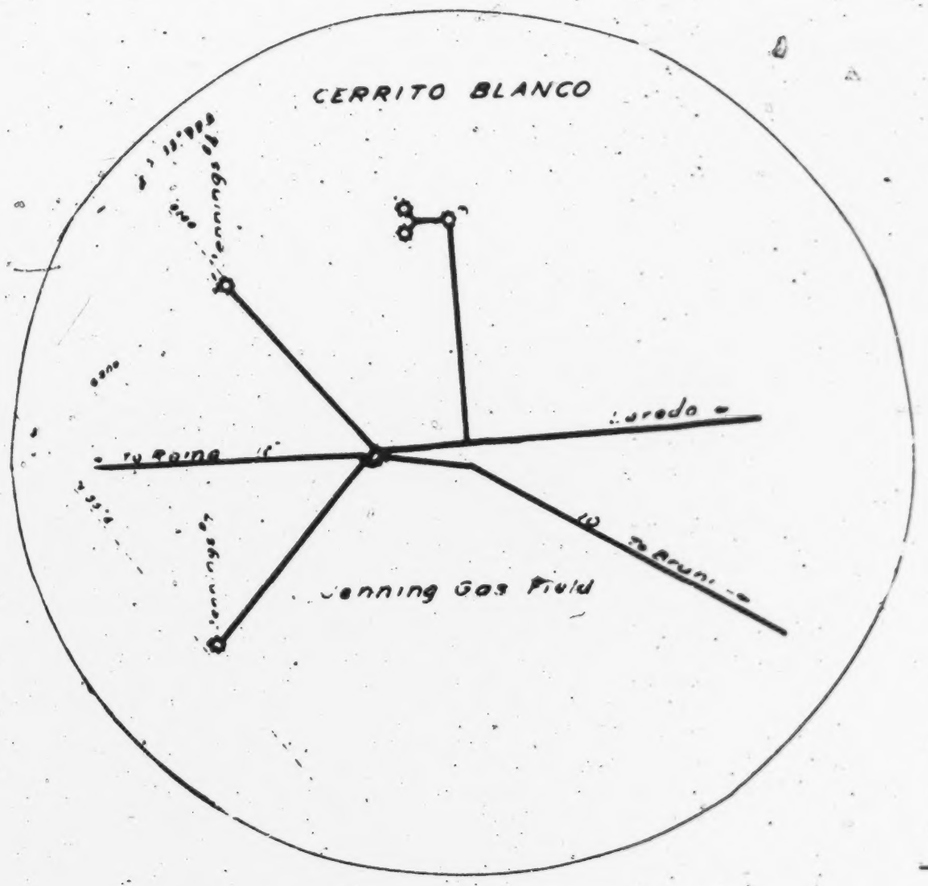
Item	Quantity	Kind	Size	Value	Corr. by Date
Saddle Clamp	35		6"		C.Y. 3-12-31
" "	1	1" Tap	6"		"
Henderson Clamp	6		6"		"
Dresser Clamp	2		6"		"
Bull Plug	3		4"x12"		"
" "	3		2"x12"		"
" "	2		2"x4"		"
Screw Plug	2		2"		"
Nipple	4		4"x12"		"
" "	2		2"x4"		"
" "	8		2"x6"		"
" "	1		2"x8"		"
" "	1		1"x3"		"
" "	2		1"x6"		"
" "	1		1"x8"		"
" "	1		1"x4"		"
" "	6		8"x6"		"
Ell	6		2"		"
"	3		1"		"
Street Ell	3		1"		"

Item	Quantity	Kind	Size	Value	Corr. by Date
Coller	2		2"		
"	1		1"		
Tee	1	Lufkin 300#	2"		
Stop Cock	1	"	1"		
Union	1		1"		
Metric Valve	6		½"		
Meter & Tubeing	2	Double Forboro			
Orifice Flange	13 set		8"		
Gauge	2	200#			
"	1	100#			
Regulator	1	Chaplin Fulton	4"		
	1	High Press Emco	4"		
	1	High Press Emco	6"		
	1	Little Giant	1"		
Pipe	63'		12"		
"	3030'		8"		
"	180334'		6"		
"	165'		4"		
	49'		2"		
"	45'		1"		

Corr. by Note	Item	Quantity	Kind	Size	Value	Corr. by Date	Item	Quantity	Kind	Size	Value	Corr. by Date	Item
C.Y. 3-12-31	Collar	2		2"		C.Y. 3-12-31	Gate Valve	2	Chapman SENRS	2"		C.Y. 3-12-31	
"	"	1		1"		"	Saddle Clamp	2		2½		C.Y. 3-12-31	
"	Tee	1	Lufkin 300#	2"		"	Nipple	1		2½"		C.Y. 3-12-31	
"	Stop Cock	1		1"		"	"	1		2"		C.Y. 3-12-31	
"	Union	1		1"		"	Bull Plug	1		2½"		C.Y. 3-12-31	
"	Metric Valve	6		⅛"		"							
"	Meter & Tubeing	2	Double Foxboro			"							
"	Orifice Flange	1 Set		8"		"							
"	Gauge	2	200#			"							
"	"	1	100#			"							
"	Regulator	1	Chuplin Fulton	4"		"							
"	"	1	High Press Emco	4"		"							
"	"	1	High Press Emco	8 6		"							
"	"	1	Little Giant	1"		"							
"	Pipe	63'		12"		"							
"	"	3030'		8"		"							
"	"	10339'		6"		"							
"	"	168'		4"		"							
"	"	49'		2"		"							
"	"	45'		1"		"							

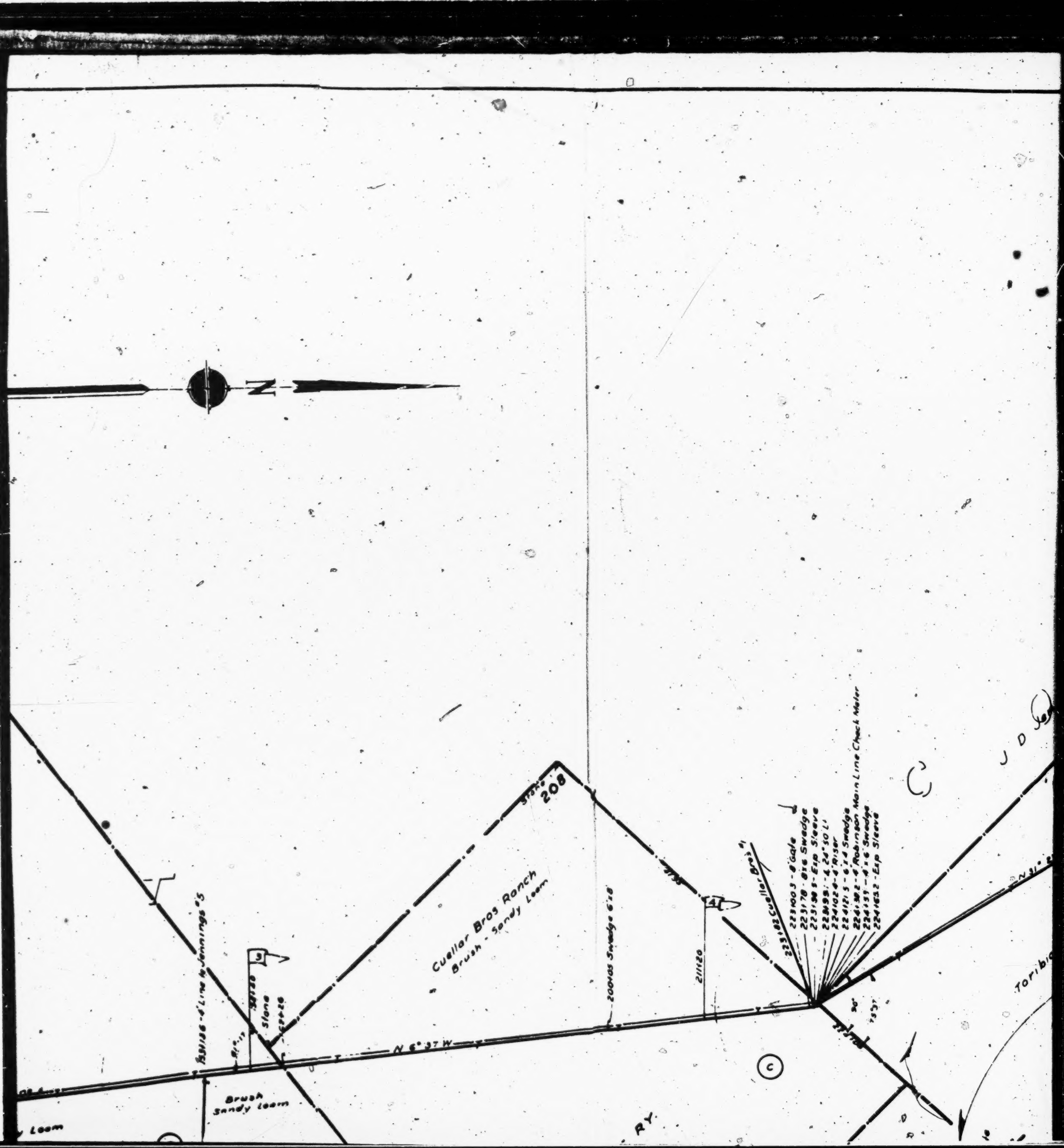
Quantity	Kind	Size	Value	Corr. by Date	Item	Quantity	Kind	Size	Value	Corr. by Date

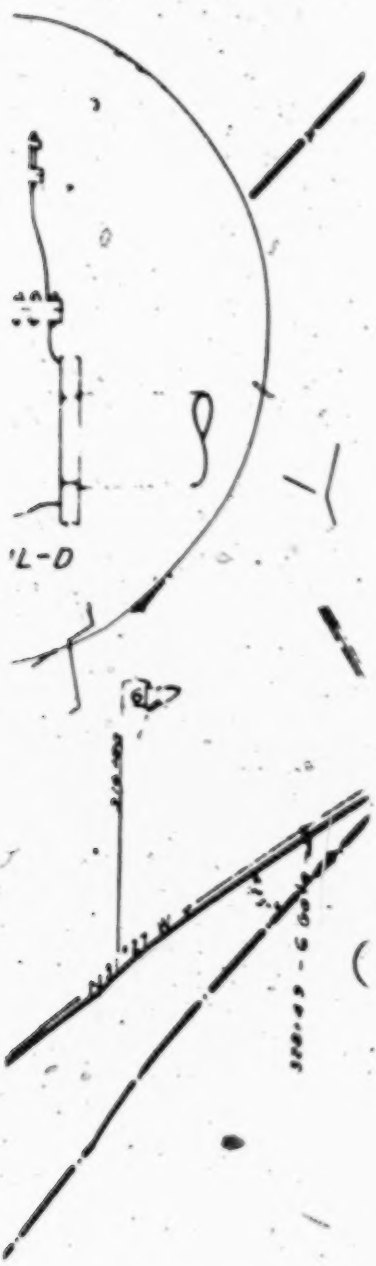
CERRITO BLANCO

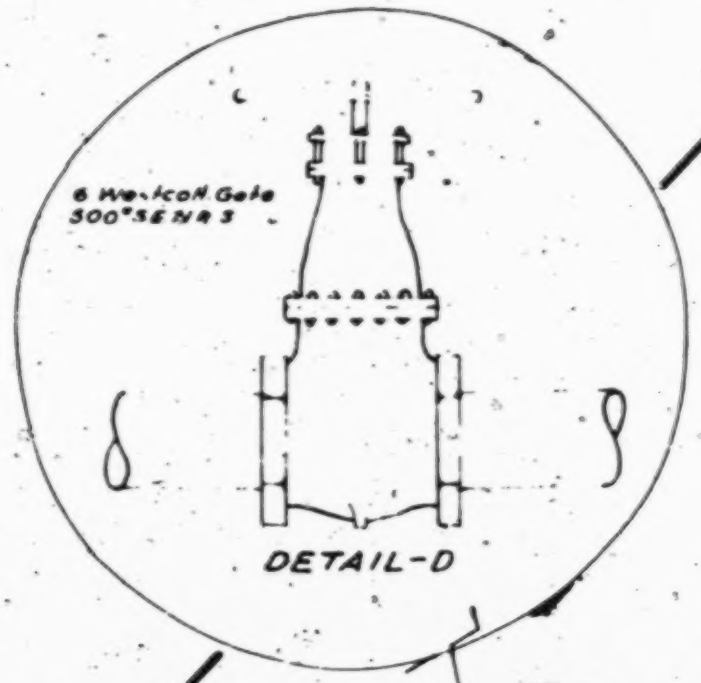


Z A P A

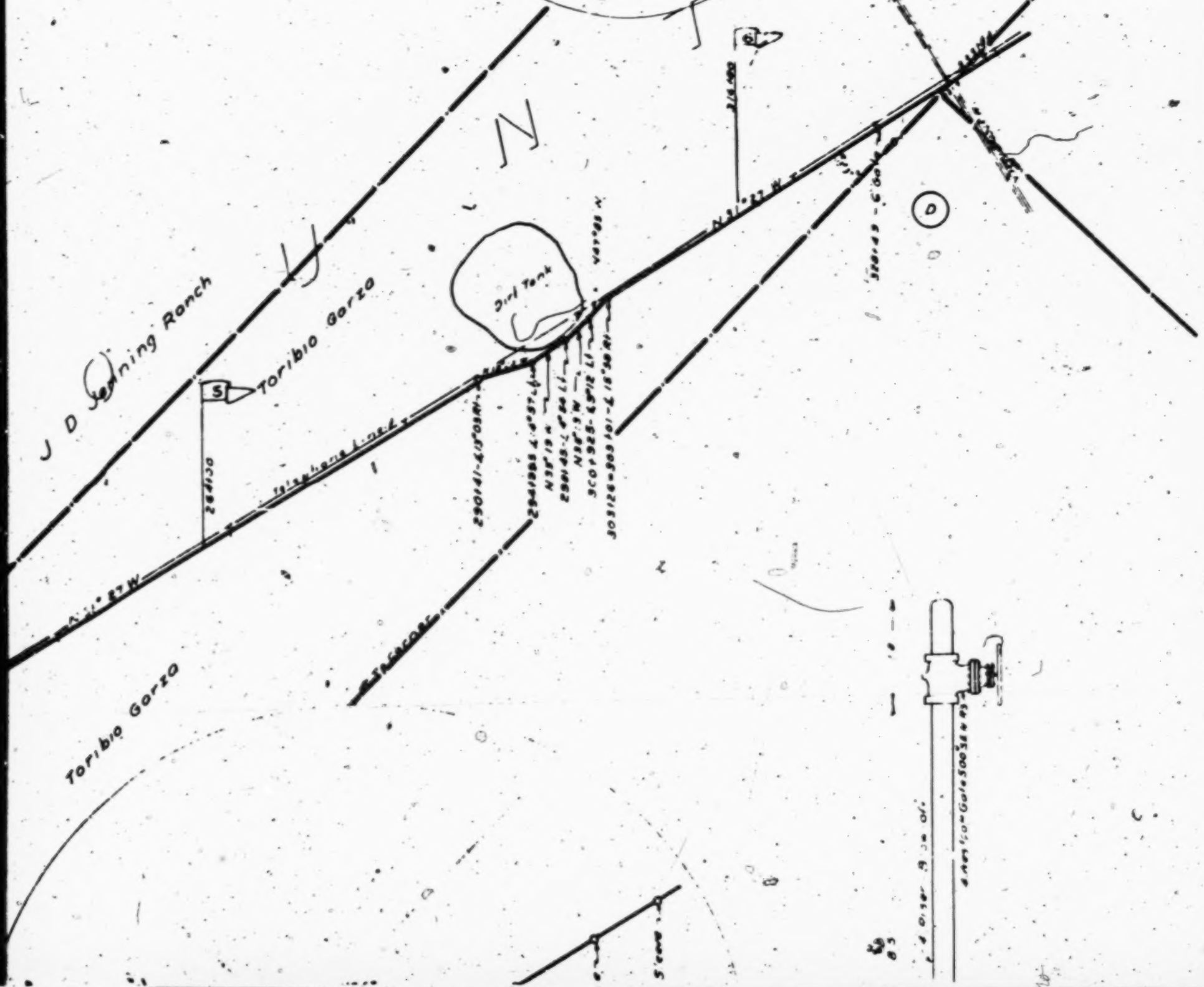
"CERRITO BLANCO"
J. M. PEREDA

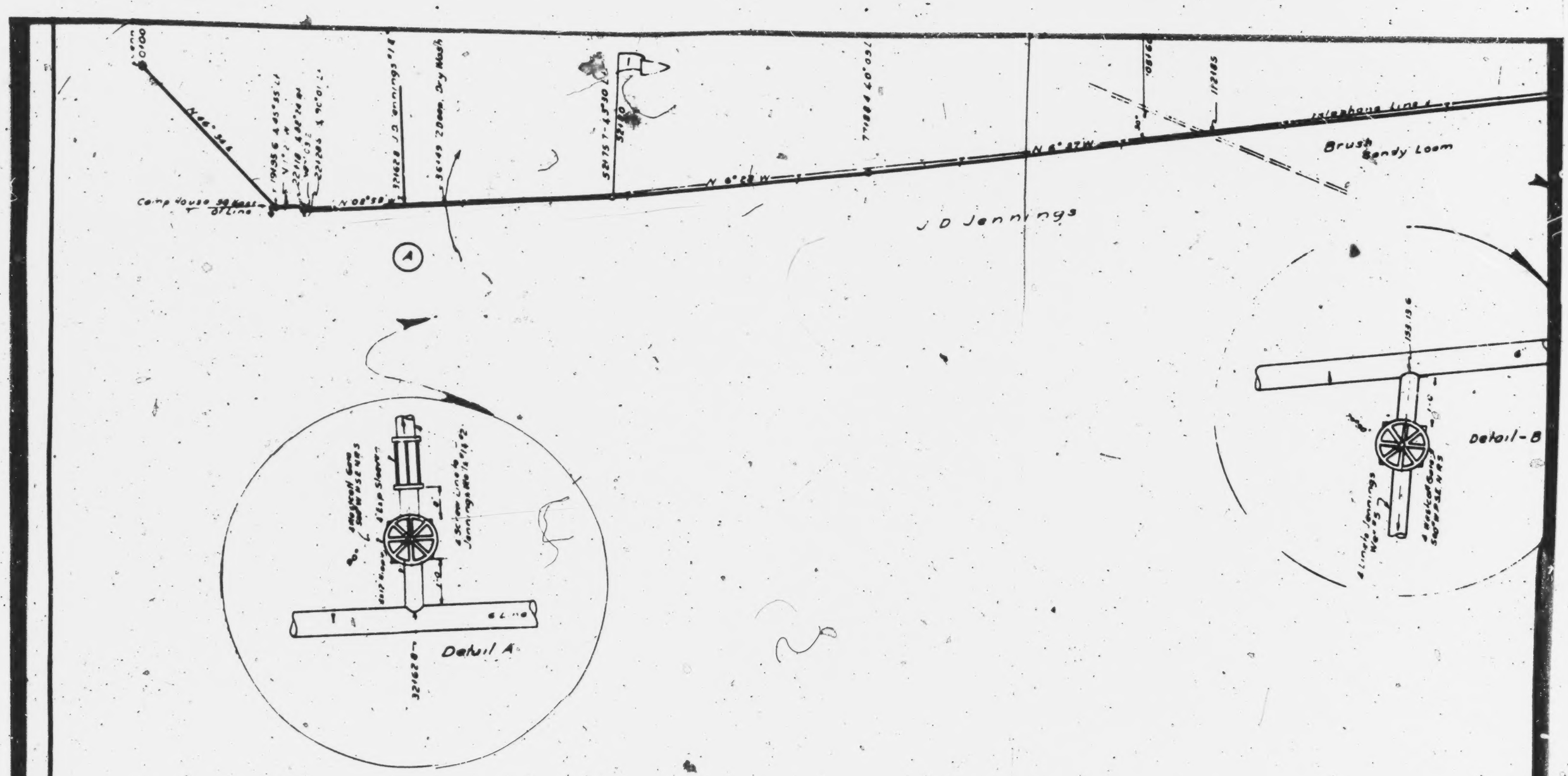

N
208
Cuellar Bros Ranch
Brush - Sandy Loam
N 6° 37 W
Brush
Sandy Loam
Loam
RY.
211120
200185 Swedge 6"ø
223102 Cuellar Bros
223003 - 6" Gate
223178 - 6" Swedge
223138 - 6" Exp Sleeve
224093 - 4" 90°
224102 - 4" Riser
224115 - 6"ø Swedge
224132 - 4" Robinson Main Line Check Meter
224131 - 4"ø Swedge
224163 - 4" Exp Sleeve
J D
C
Toribio




6 Weldcon Gate
300°SENA 3

DETAIL-D


J D Lanning Ranch
Toribio Gorzo
Toribio Gorzo
Dirt Tank
S
D


Camp House
Brush
Sandy Loam
J D Jennings
N 0°58 W
N 8°47W
N 0°55
Detail A
Detail B

Detail-B

4 Hoskcol! Gate
500# W P S E N R S

153 13.6

Loam

B

153 11.2

Brush
Sandy loam

N 6° 37' W

G C & S F R Y

C

223100 3 - 8 P. Asbury Gate
500# W P S E N R S

223178 8 to 6 Swedge

223182 - 4 Line to
Cutler Bros #1

4 Hoskcol! Gate
500# W P S E N R S.

4" Exp Sleeve

18

223198 5 Exp Sleeve

DETAIL - C
SCALE 1" = 10'

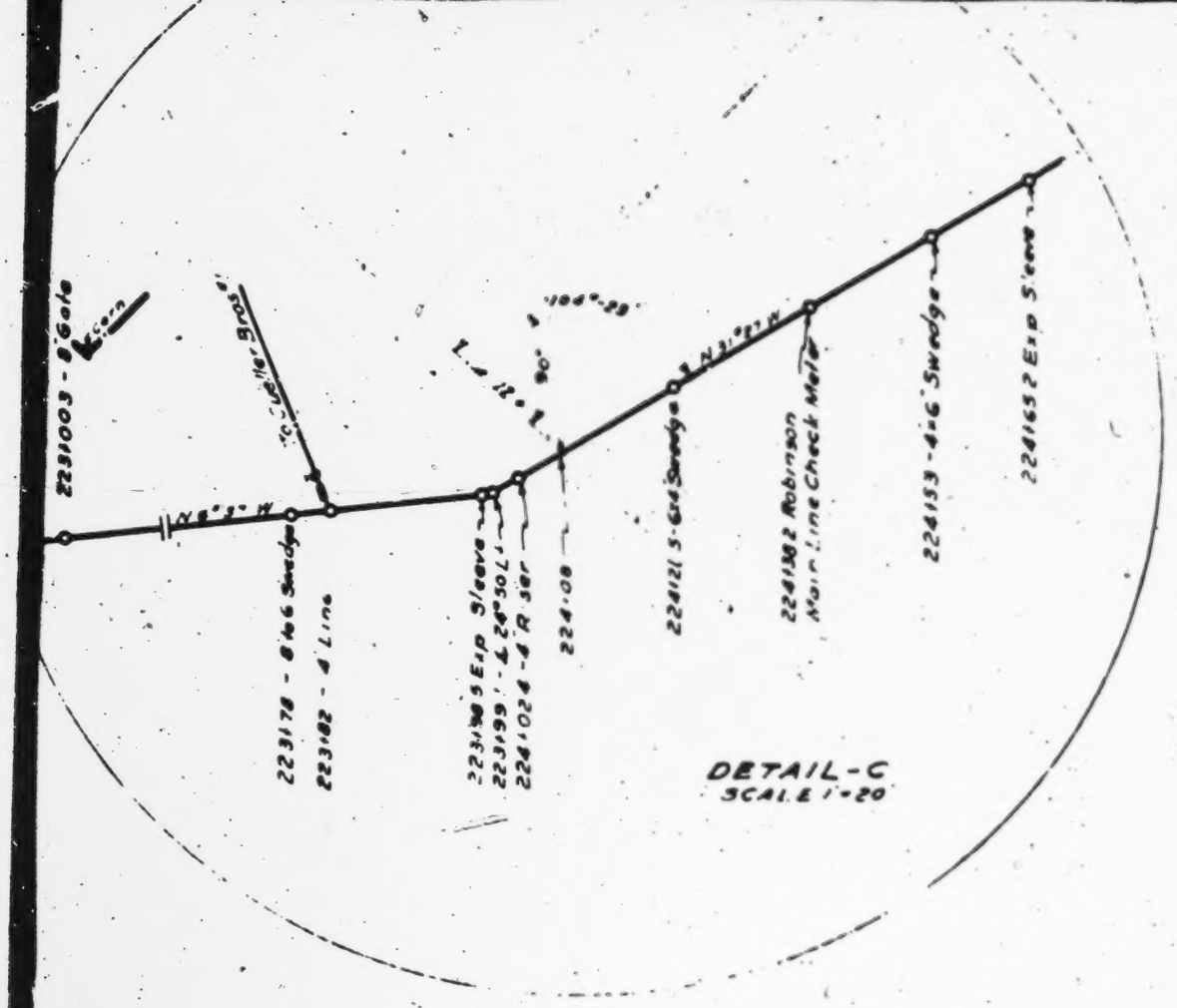
223100 3 - 8" Gate

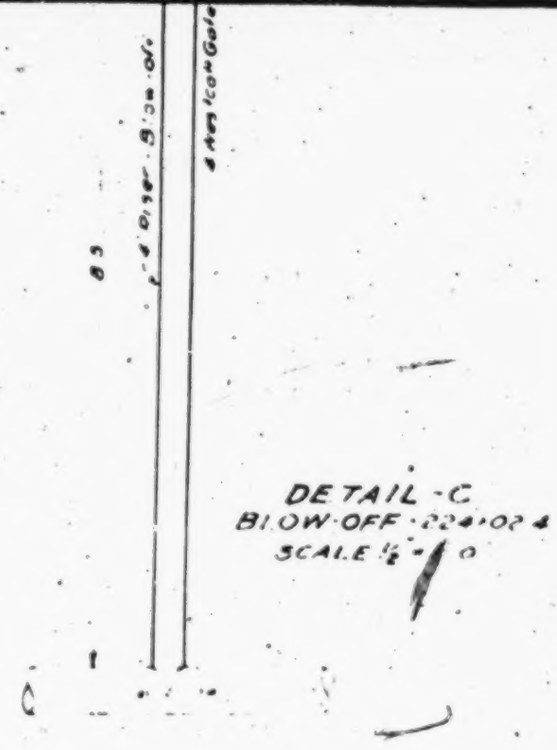
223178 - 8 to 6 Swedge

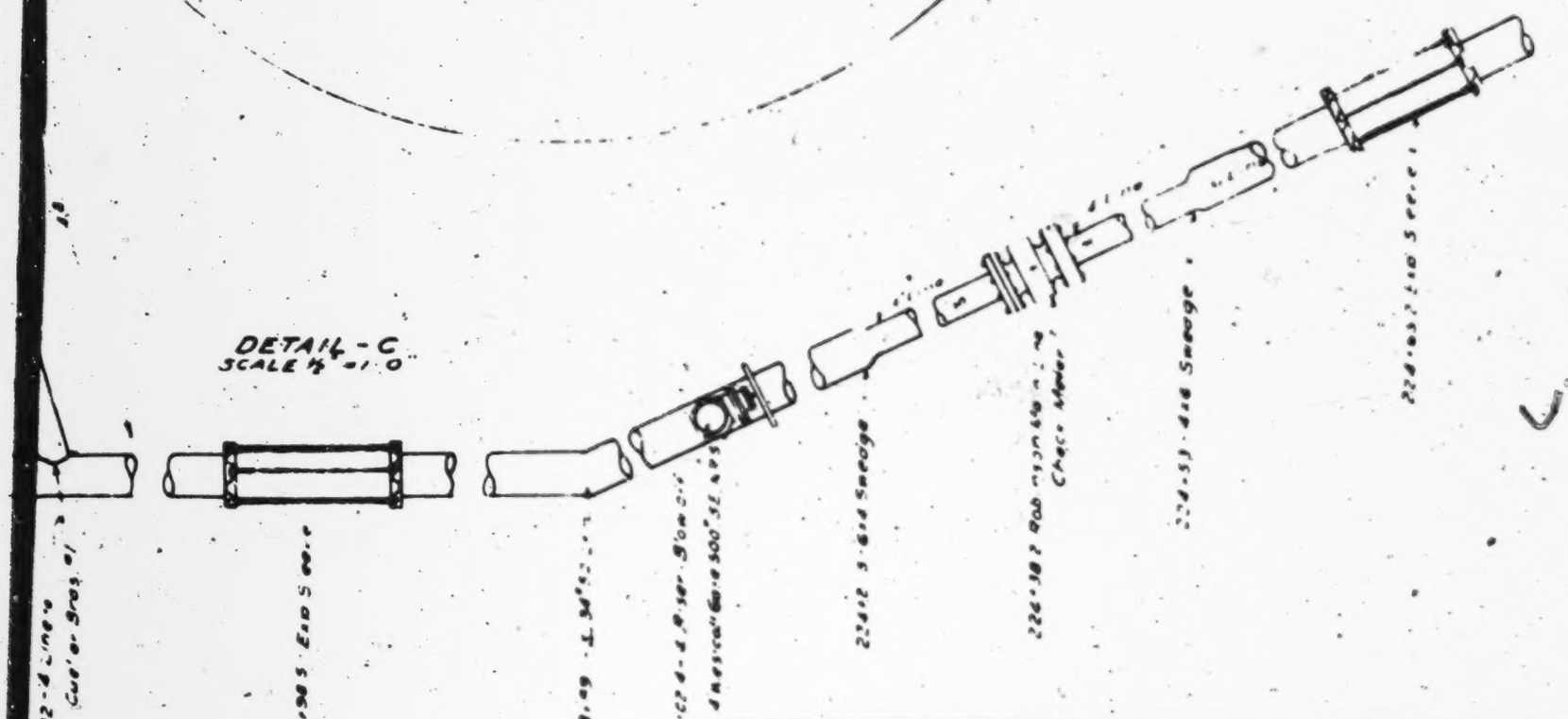
223182 - 4 Line

To Cutler Bros #1

223198 5 Exp Sleeve
223199 1 - ∠ 24° 30' Lt



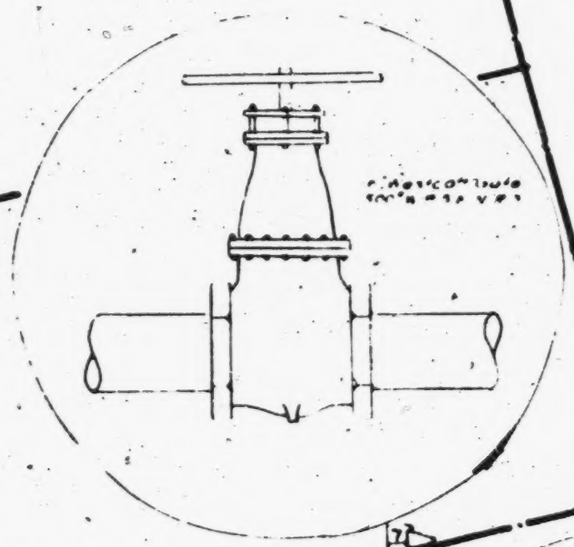




6" MAIN LINE FROM JENNINGS FIELD TO PESCADITO JUNCTION

Drwg No Sheet No 1 Sheets -		Dr by - C Y Tr by - C Y Chk by
Scale 1" = 1000'	APPROVED BY	Date

Z A P A T



"BLAS MARIA"
ANTONIO M. GUITERREZ

205

Ysidro Martinez

Telephone Line

N 31° 27 W

422'40

169'60

Dry Wash 2 Deep

Dry Wash 3 Deep

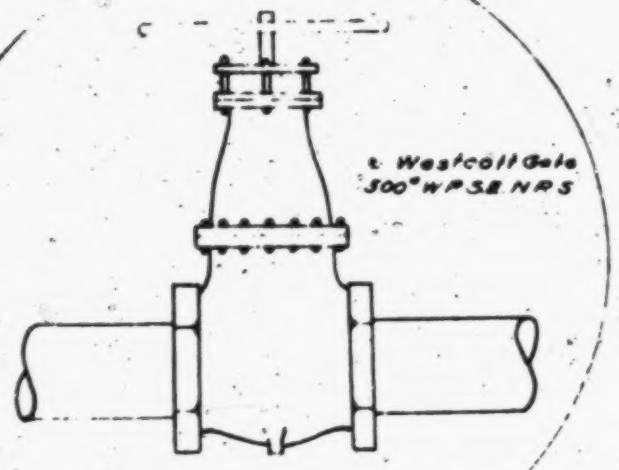
N

A

C

O

Santiago Martinez



9

10

Field

5171.32

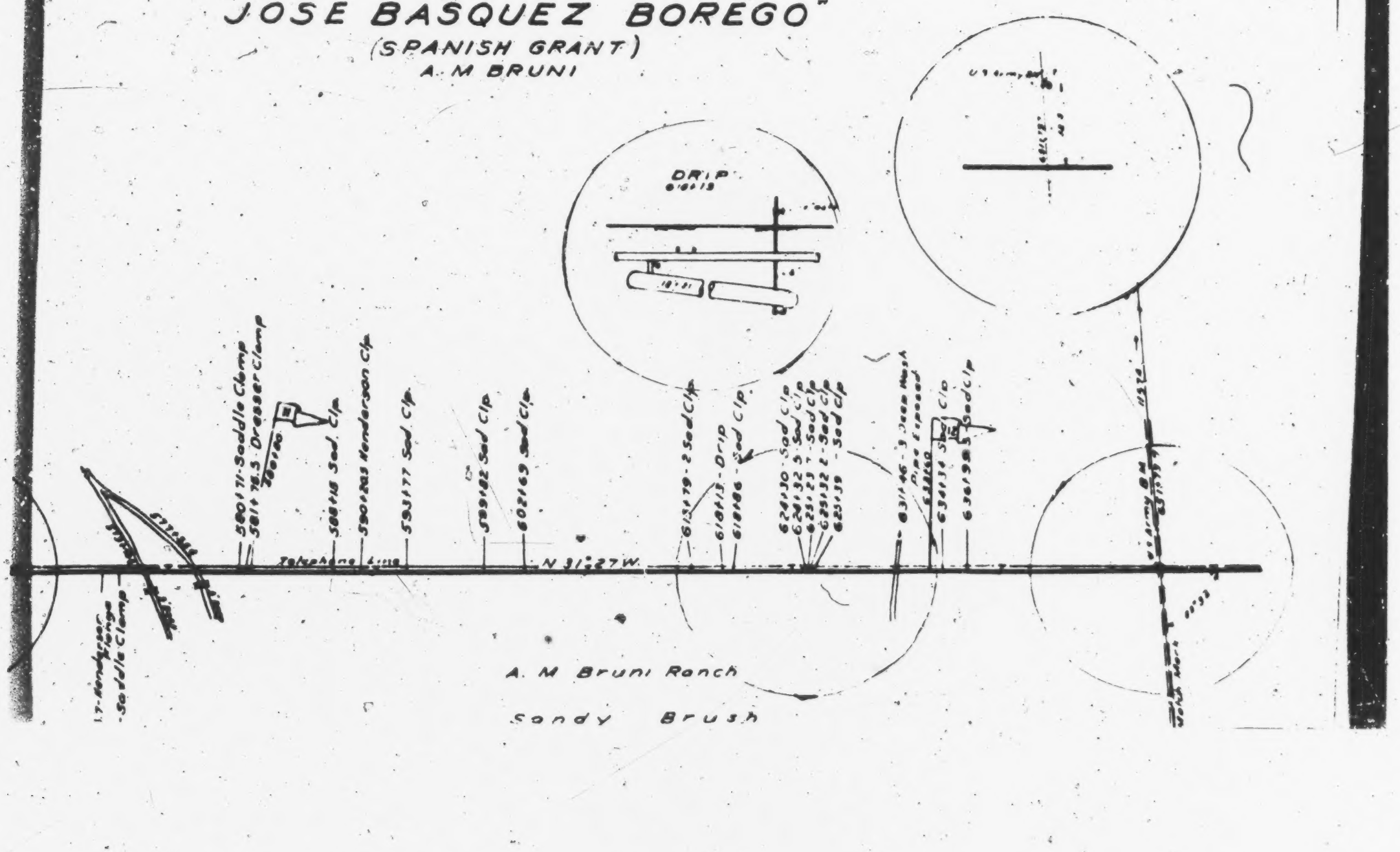
5291.23.5

5401.83 - 6 Gate

5561.33 - 2" Bull Plug

U N I T Y

"JOSE BASQUEZ BOREGO"
(SPANISH GRANT)
A. M BRUNI



Ysidro Martinez

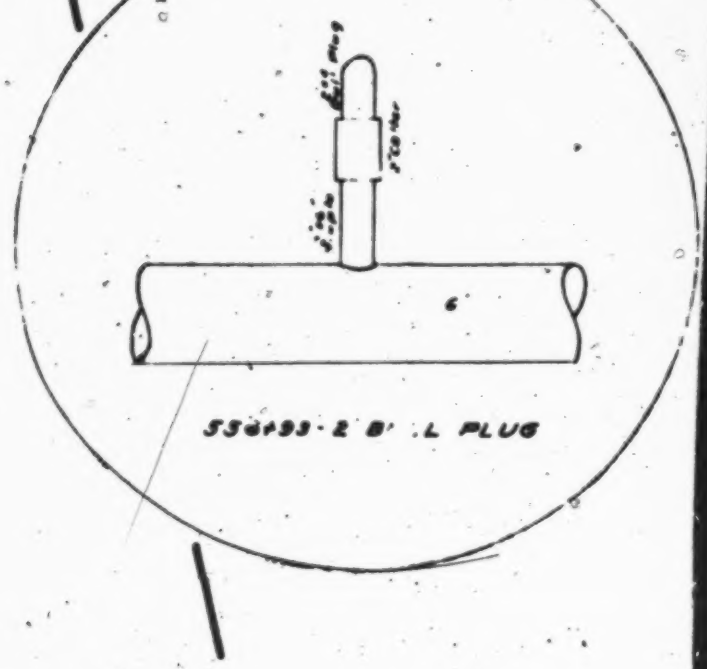
C. & M. R. R

3891275 Gate
3891645 Drip

DRIP 3891645

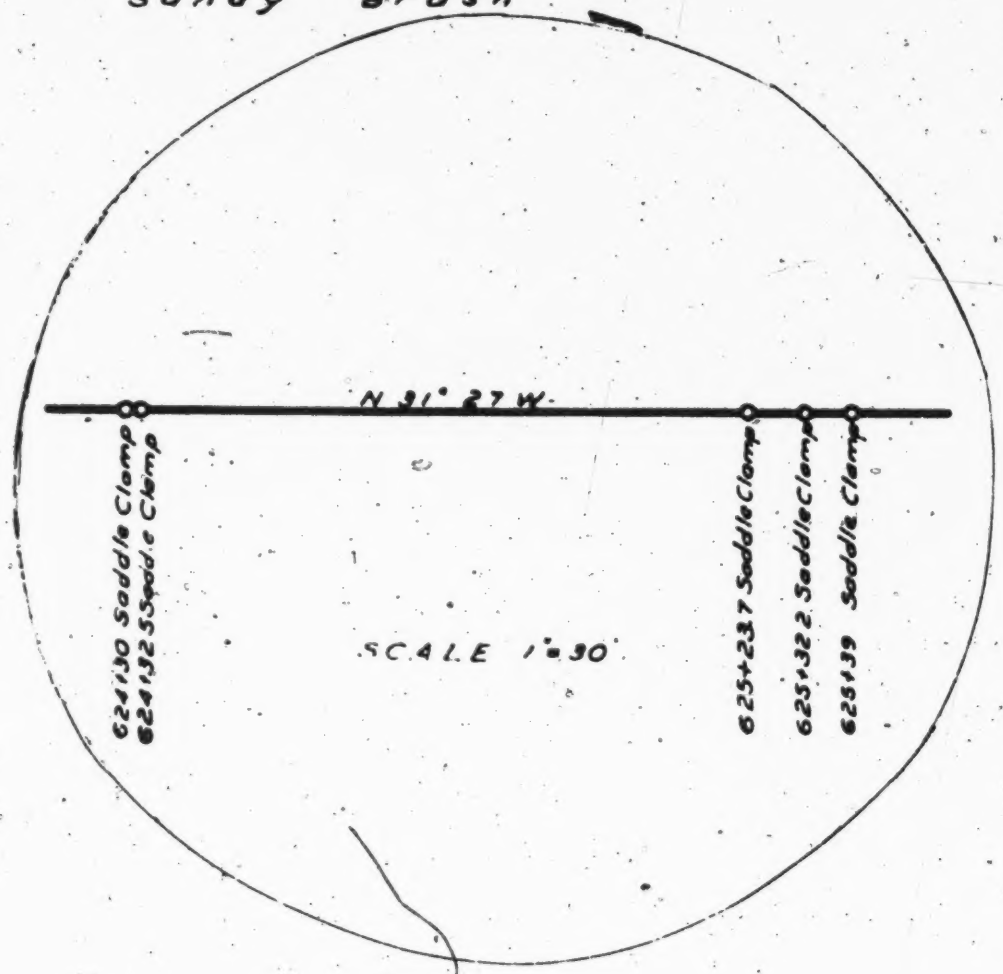
'BL
ANT

BLAS MARIA
ANTONIO M. GUITERREZ
Santiago Martinez



A. M Bruni Ranch

Sandy Brush



6" MAIN LINE FROM JENNINGS FIELD TO PESCADITO JUNCTION

Drwg No. Sheet No. 2 Sheets-		Dr by - C.Y Tr by - C.Y Chk by-
Scale 1"=1000	APPROVED BY-	Date

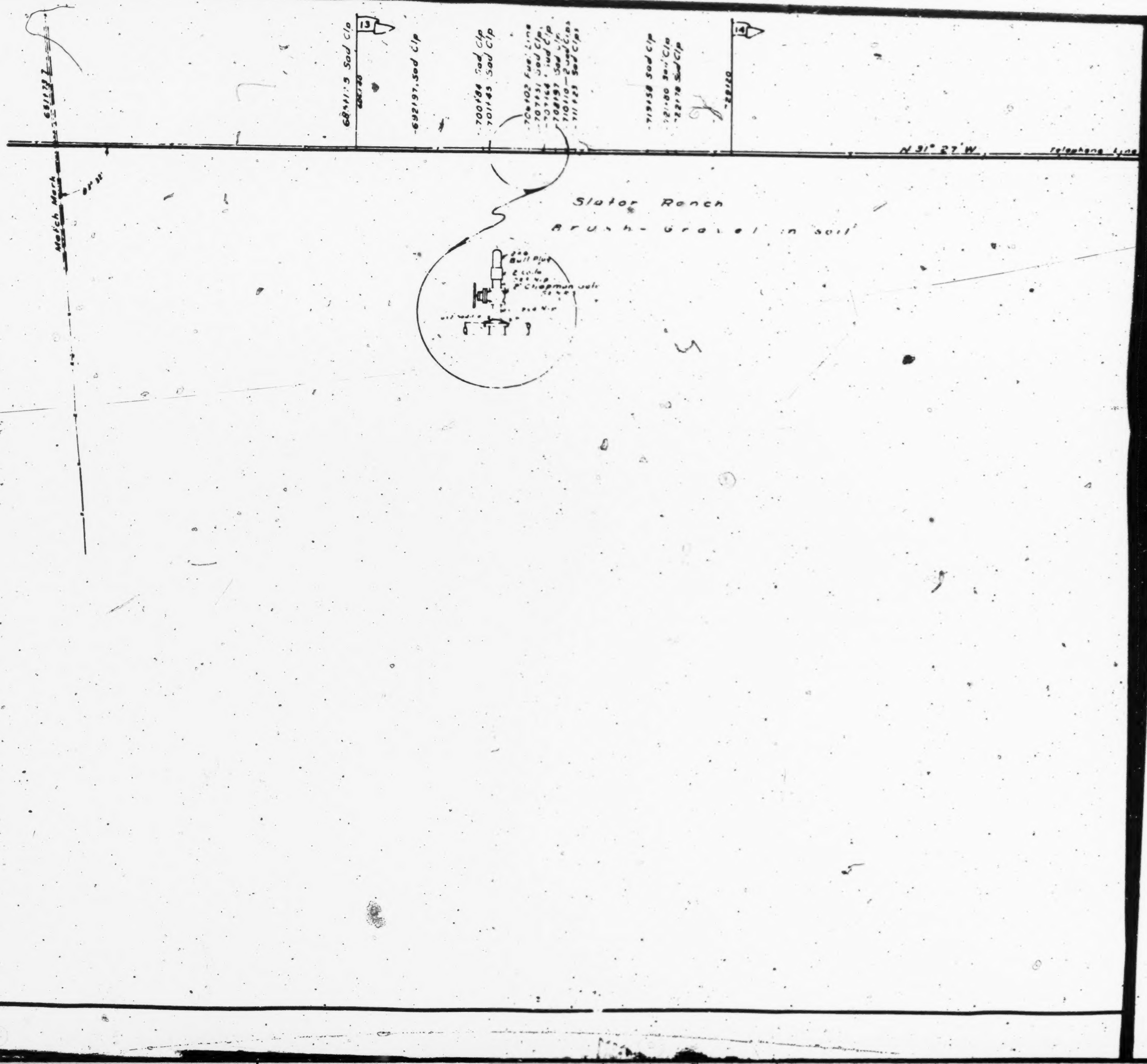
2468

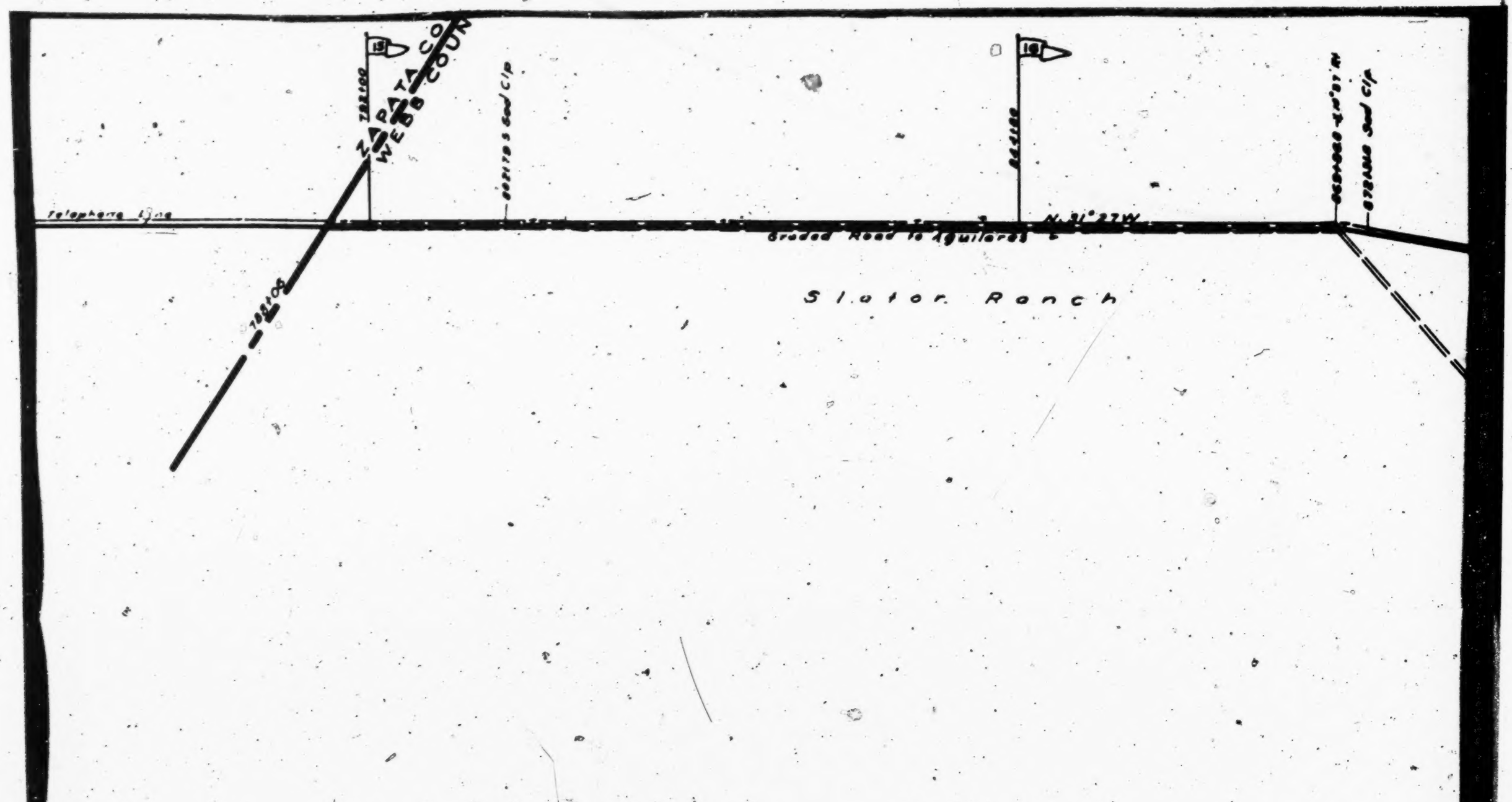
.28120
.19158 Sod Clip
.1180 Soil Clip
.22178 Sod Clip
.11429 Sod Clips
.10110 — 2 Sod Clips
.08197 Sod Clip
.07164 Sod Clip
.07431 Sod Clip
.06102 Fuel Line
.00184 Sod Clip
.01483 Sod Clip
12197 Sod Clip
.22120
.89117.9 Sod Clip

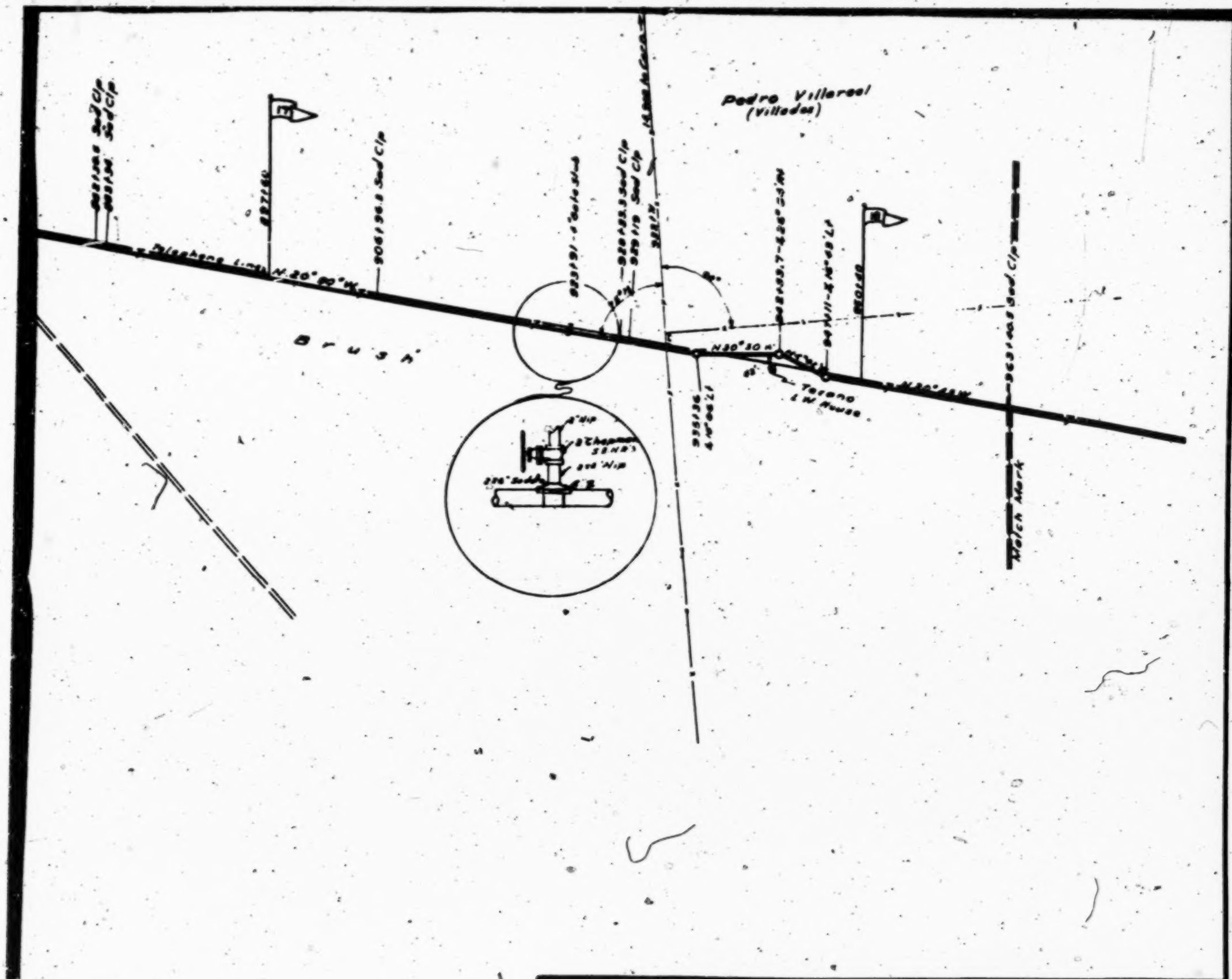
N
JOSE BASQUEZ BOREGO
ZAPATA COUNTY
WEBB COUNTY

WOODBURY

Pedro Villareal (villadoa)


13
14
Slator Ranch
Brush - gravel in soil
N 31° 27' W
telephone line
March Mark

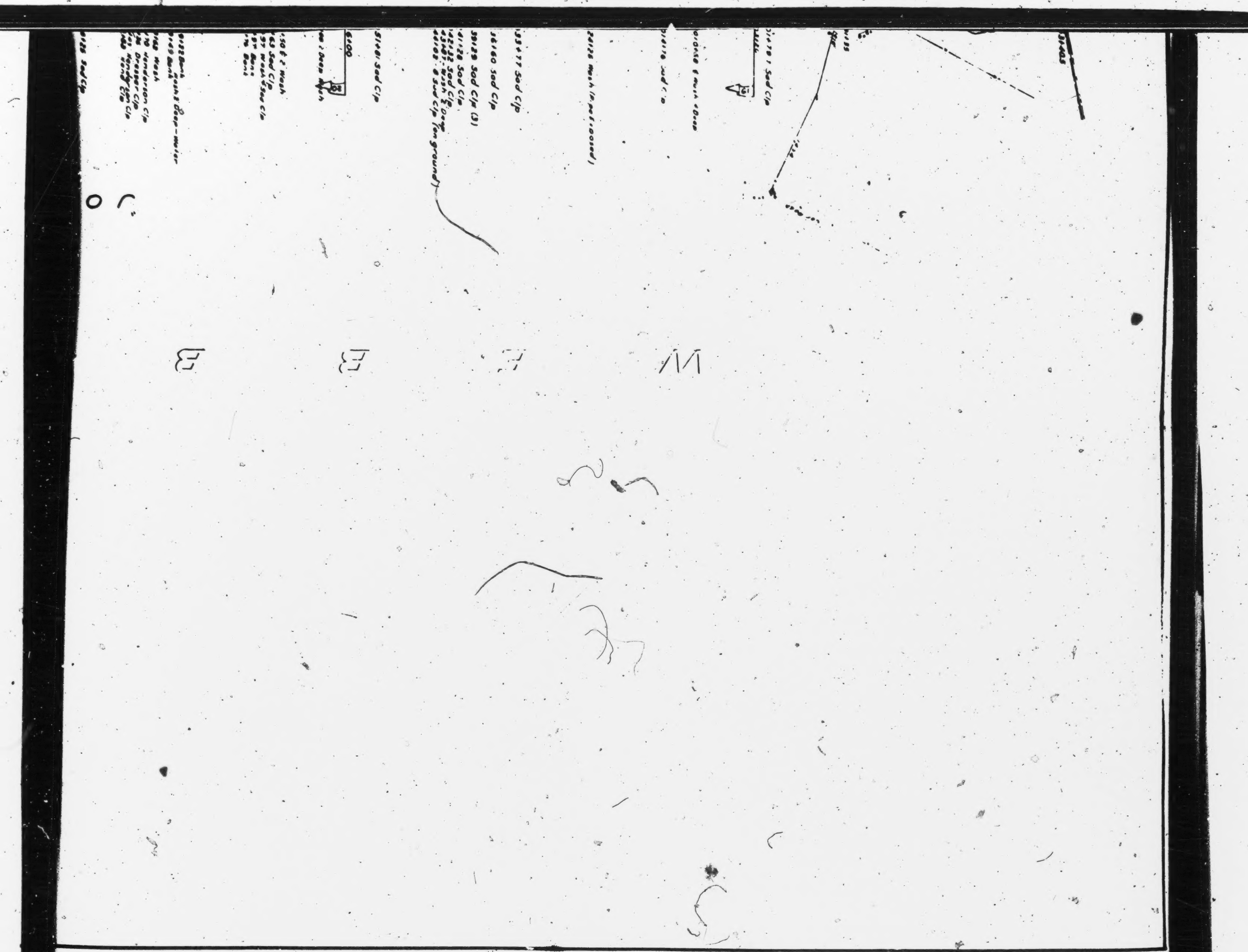

ZAPATA CO
WEBB COUN
Telephone Line
Broad Road to Aguilares
N. 21° 27W
Slator Ranch

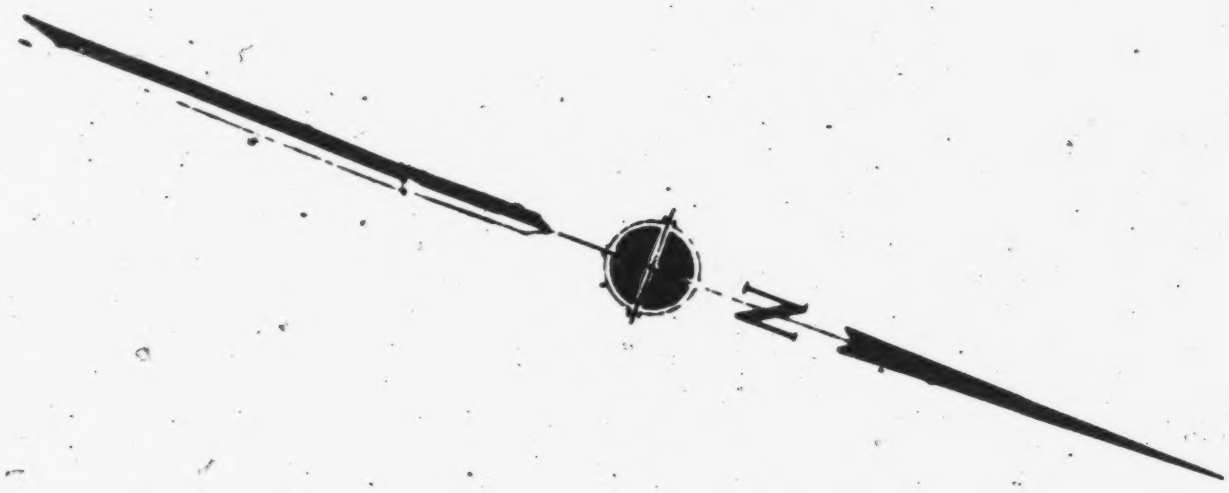


6" MAIN LINE FROM JENNINGS FIELD TO PESCADITO JUNCTION

Drwg No Sheet No.3 Sheets		Dr by- C.Y. Tr. by- C.Y. Chk. by-
Scale: 1"=1000'	APPROVED BY-	Date:

2469





JOSE BASQUEZ BOREGO

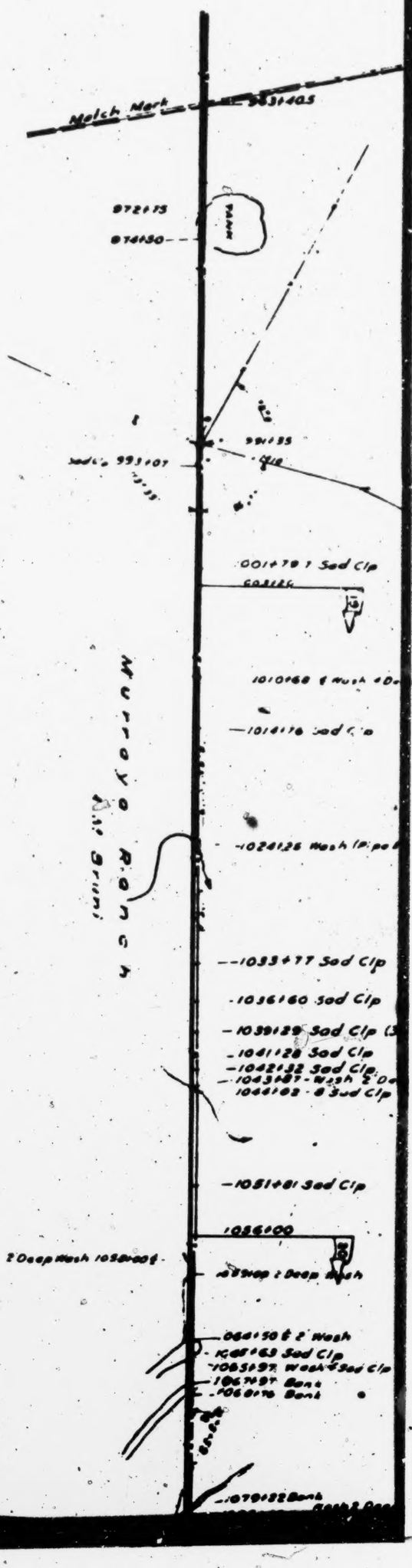
A M. Bruni

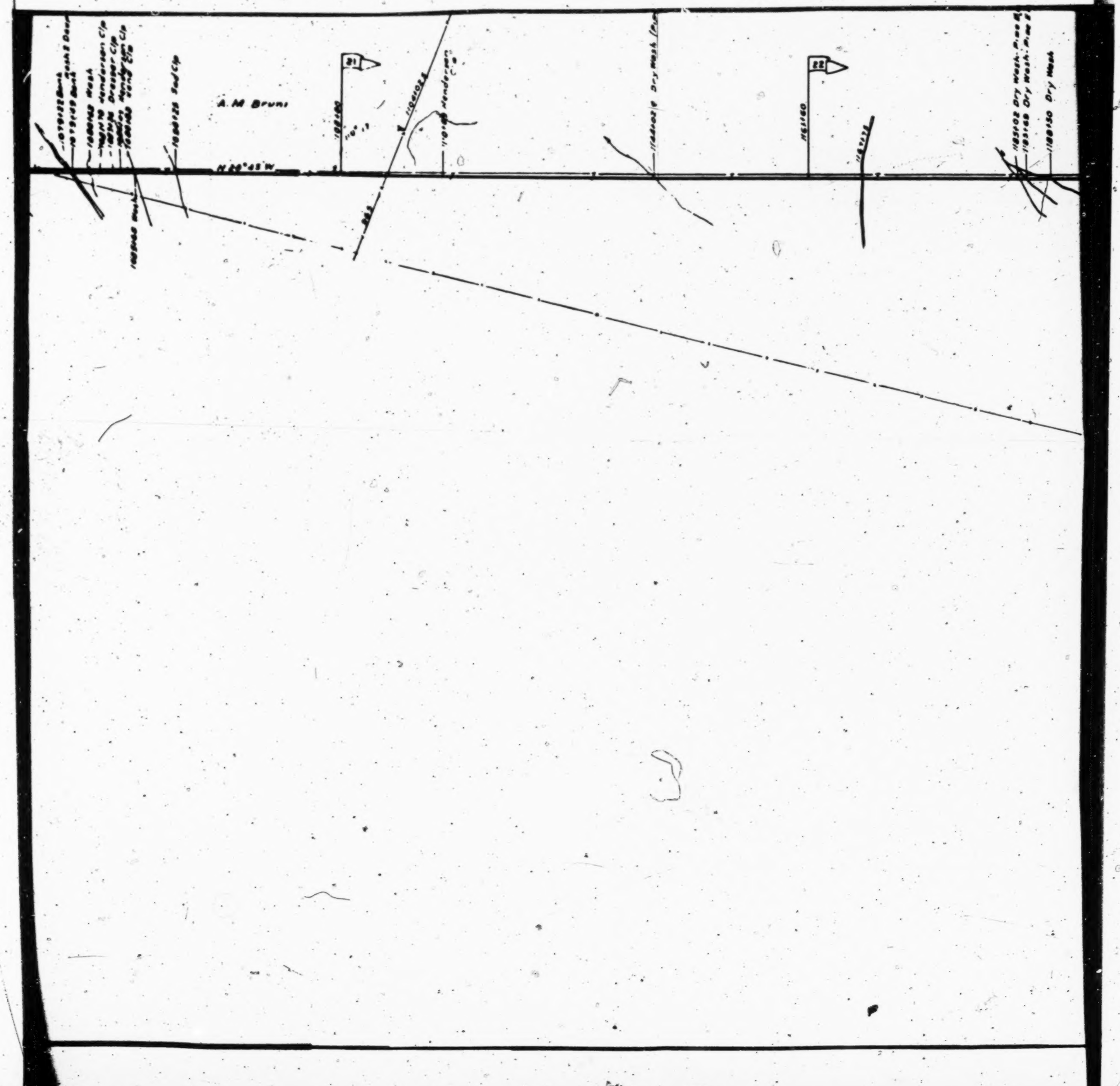
A. M Bruni

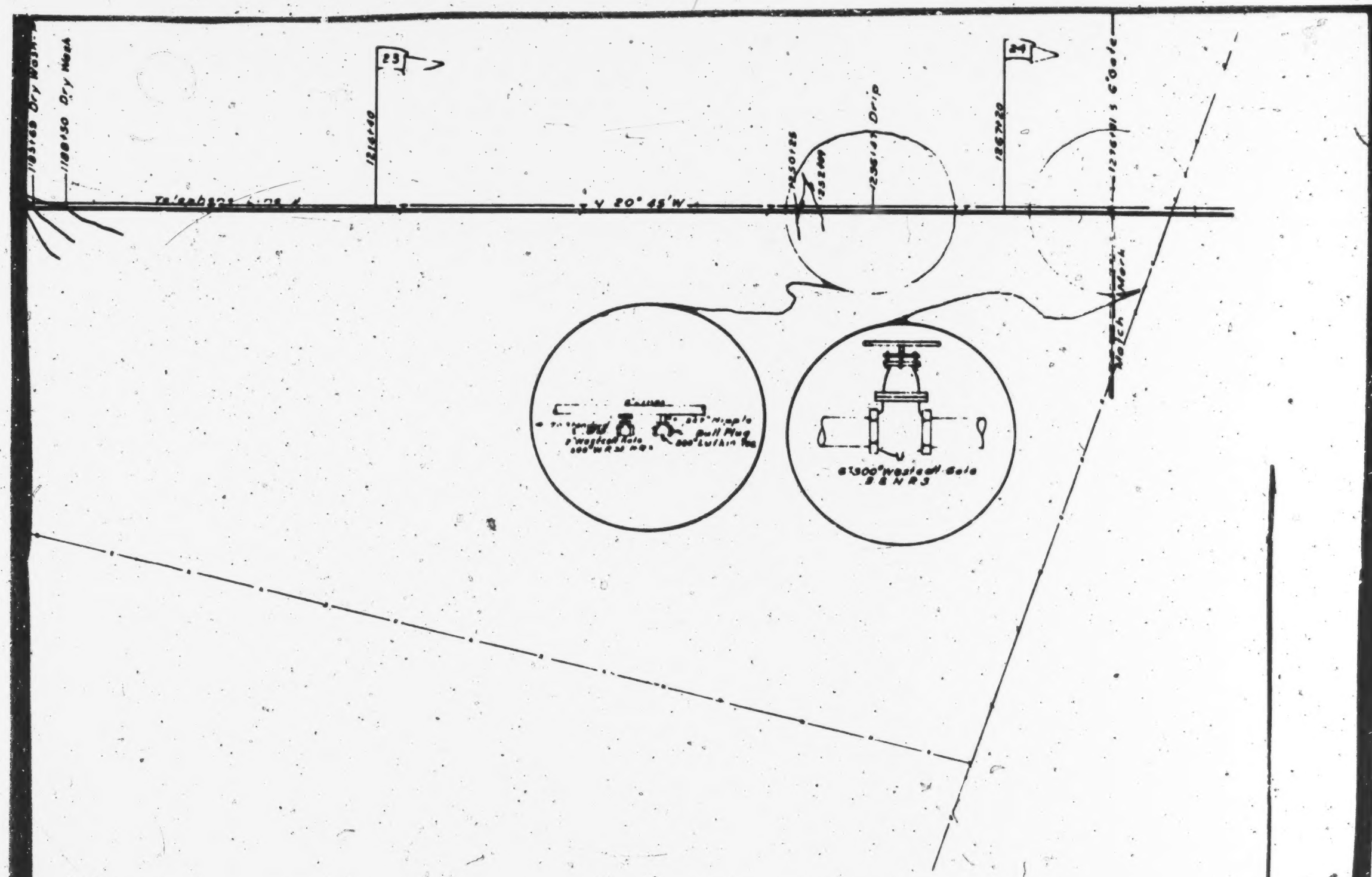
21

22

Dry Wash Flood Channel
Dry Wash Flood Channel
Dry Wash


Mulch Mark
972173
974150
993107
1001478 Sod Clp
1010168
1014176
1024128
1033477 Sod Clp
1036160 Sod Clp
1039129 Sod Clp
1041128 Sod Clp
1042132 Sod Clp
1044102 - 8 Sod Clp
1051481 Sod Clp
1056100
1060506 2' Wash
1065197 Wash & Sod Clp
1067497 Bank
1070122 Bank
Murroyo Road
Dirt Grind

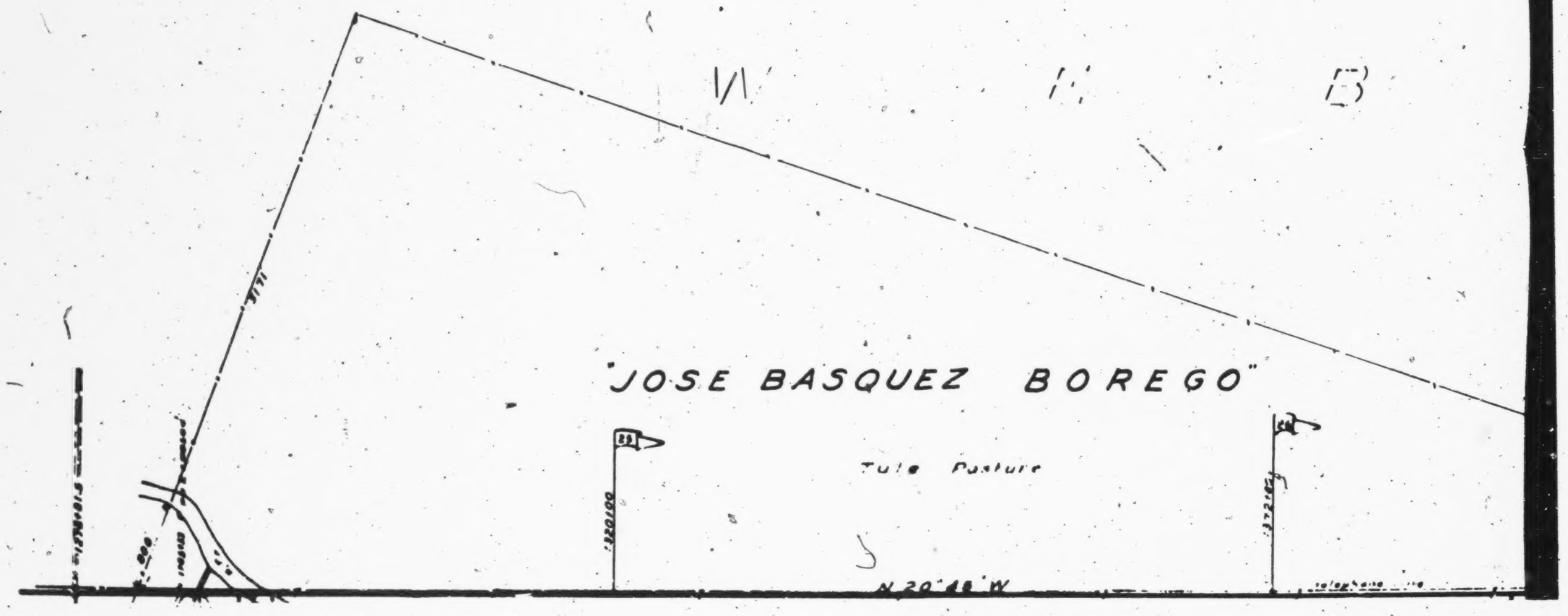

A. M Bruni
N 89°-45' W
21
22
Dry Wash
Dry Wash
Dry Wash

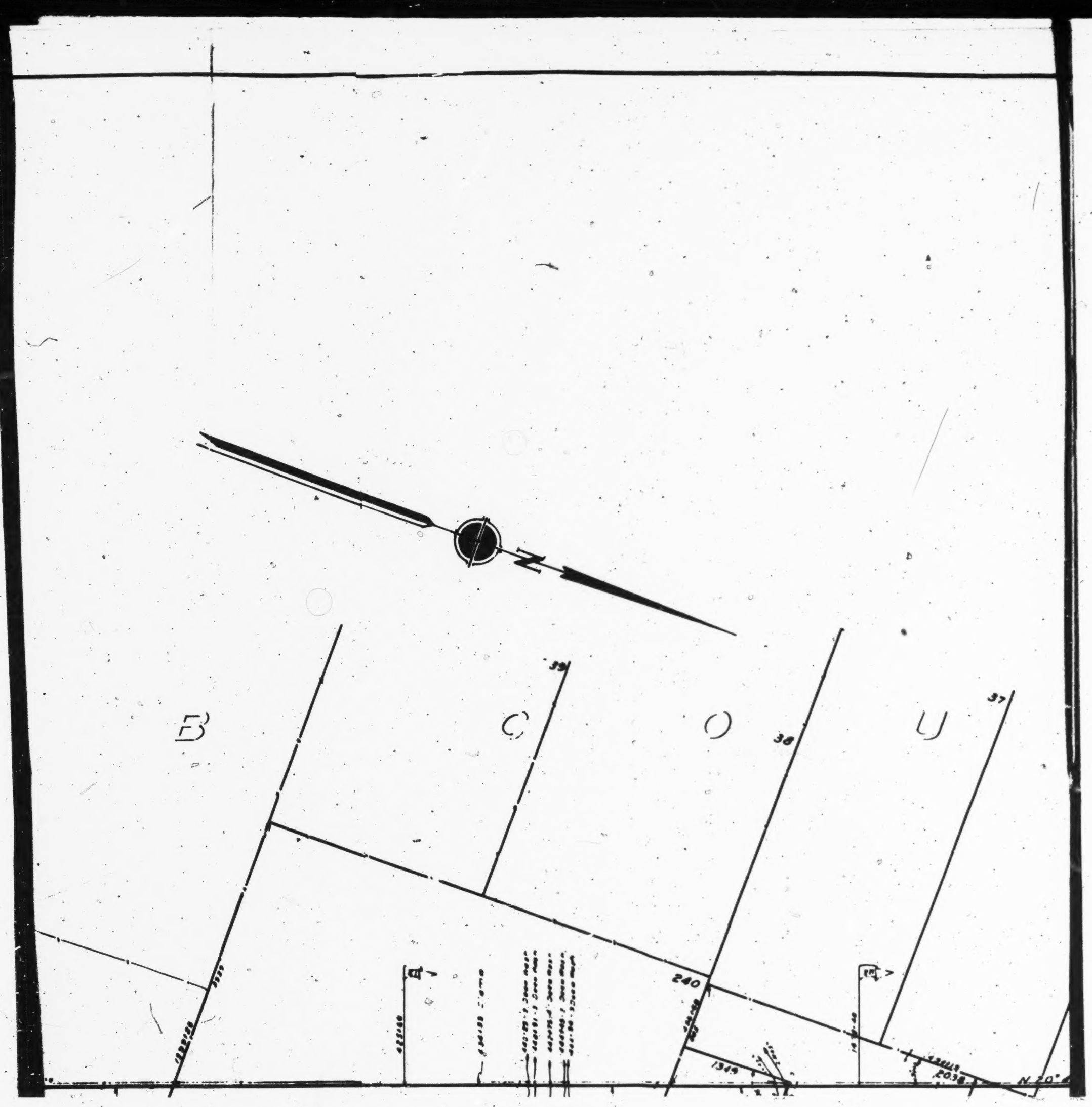


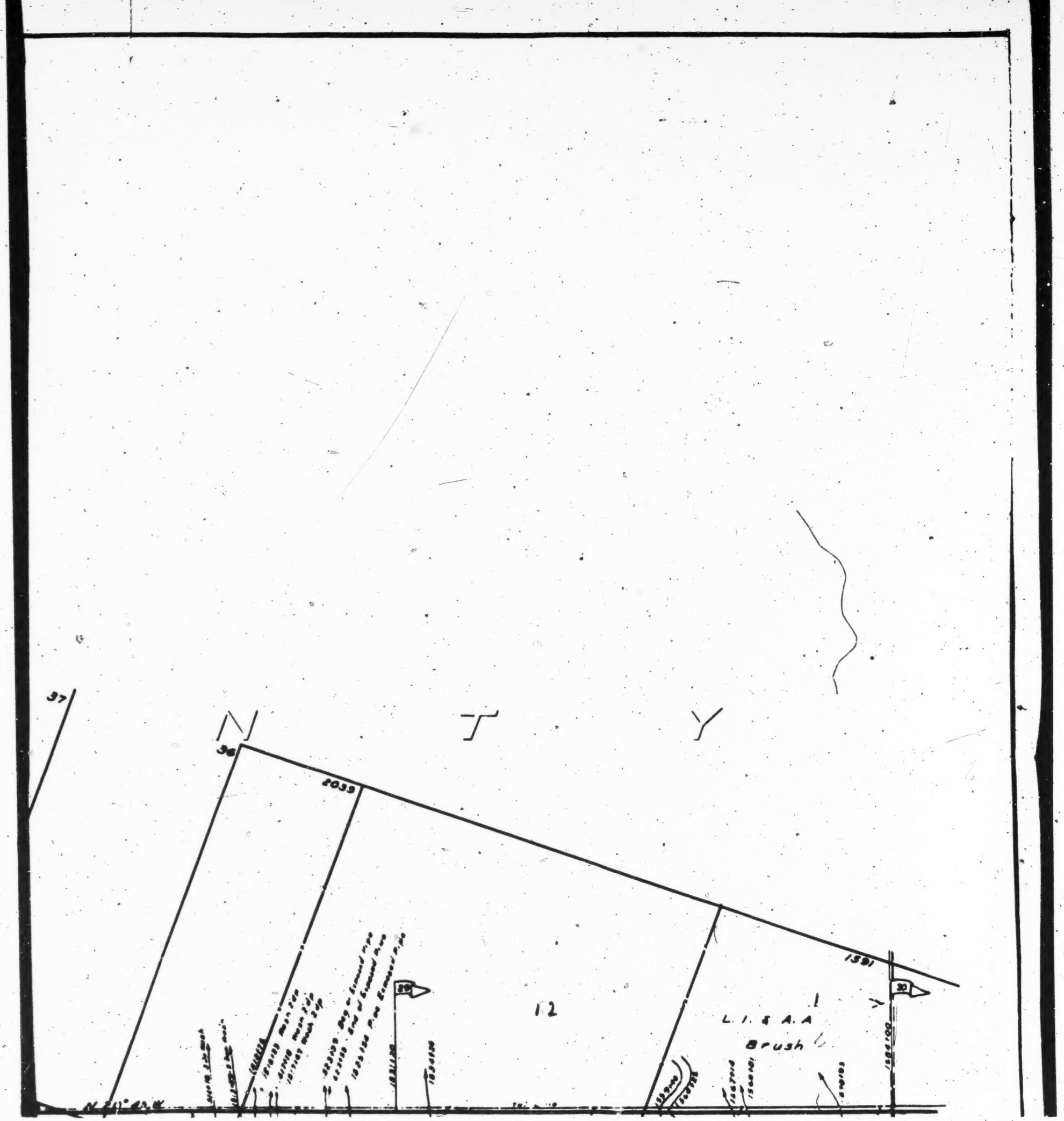
6" MAIN LINE FROM JENNINGS FIELD TO PESCADITO JUNCTION

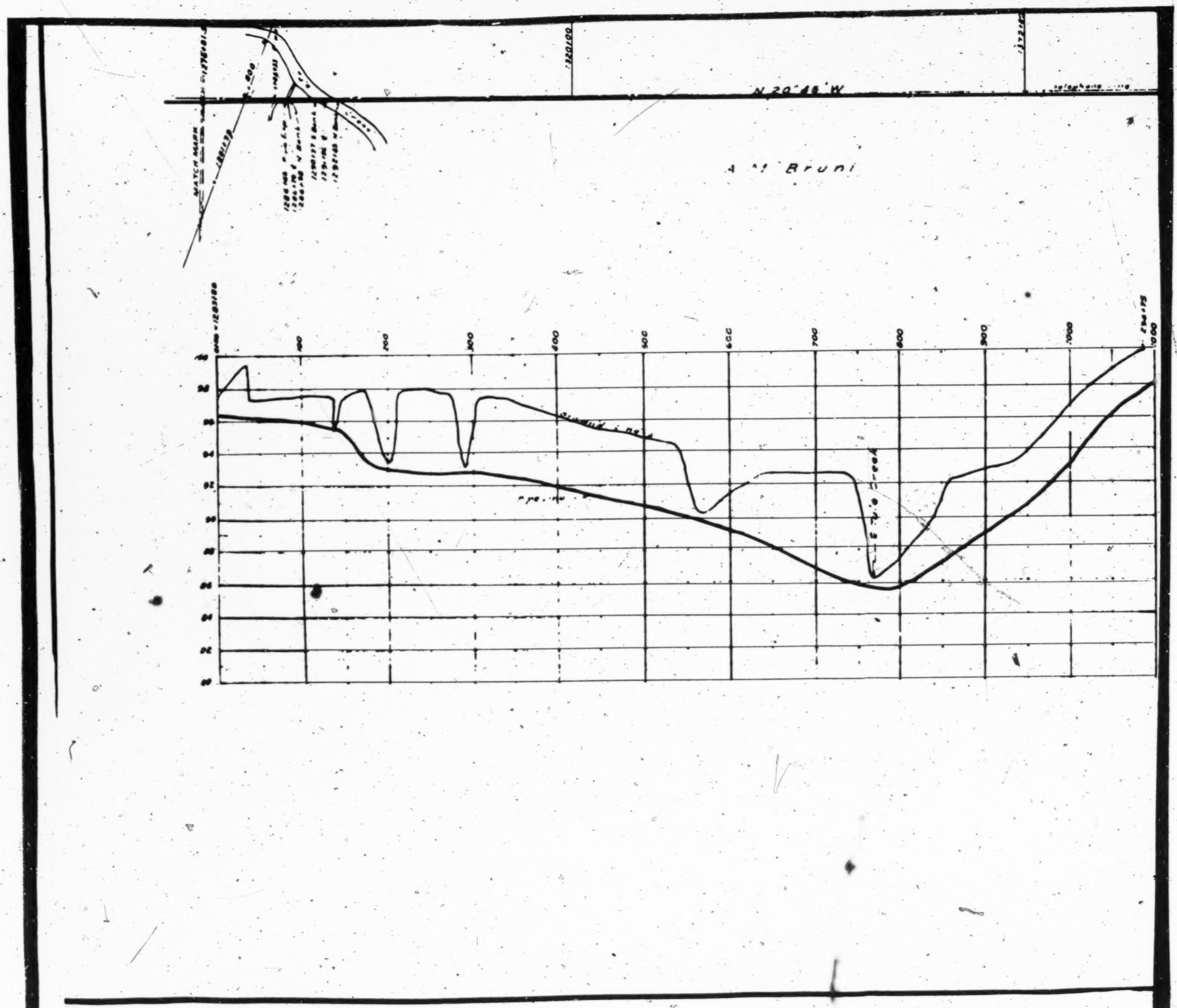
Drwg No Sheet No. 4 Sheets		Dr by - C Y Tr. by - C Y Chk by.
Scale 1" = 1000'	APPROVED BY.	Date

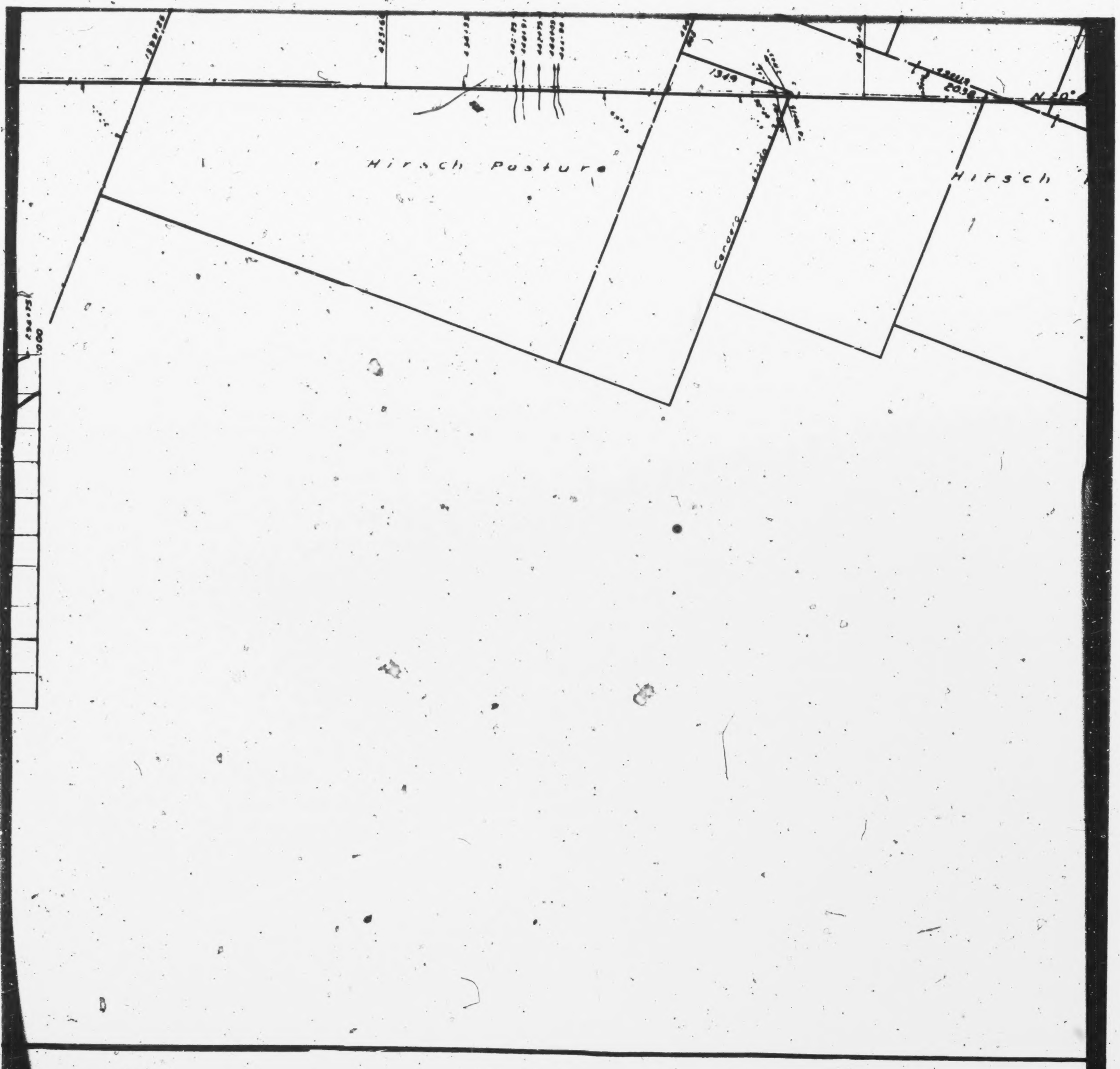
2470

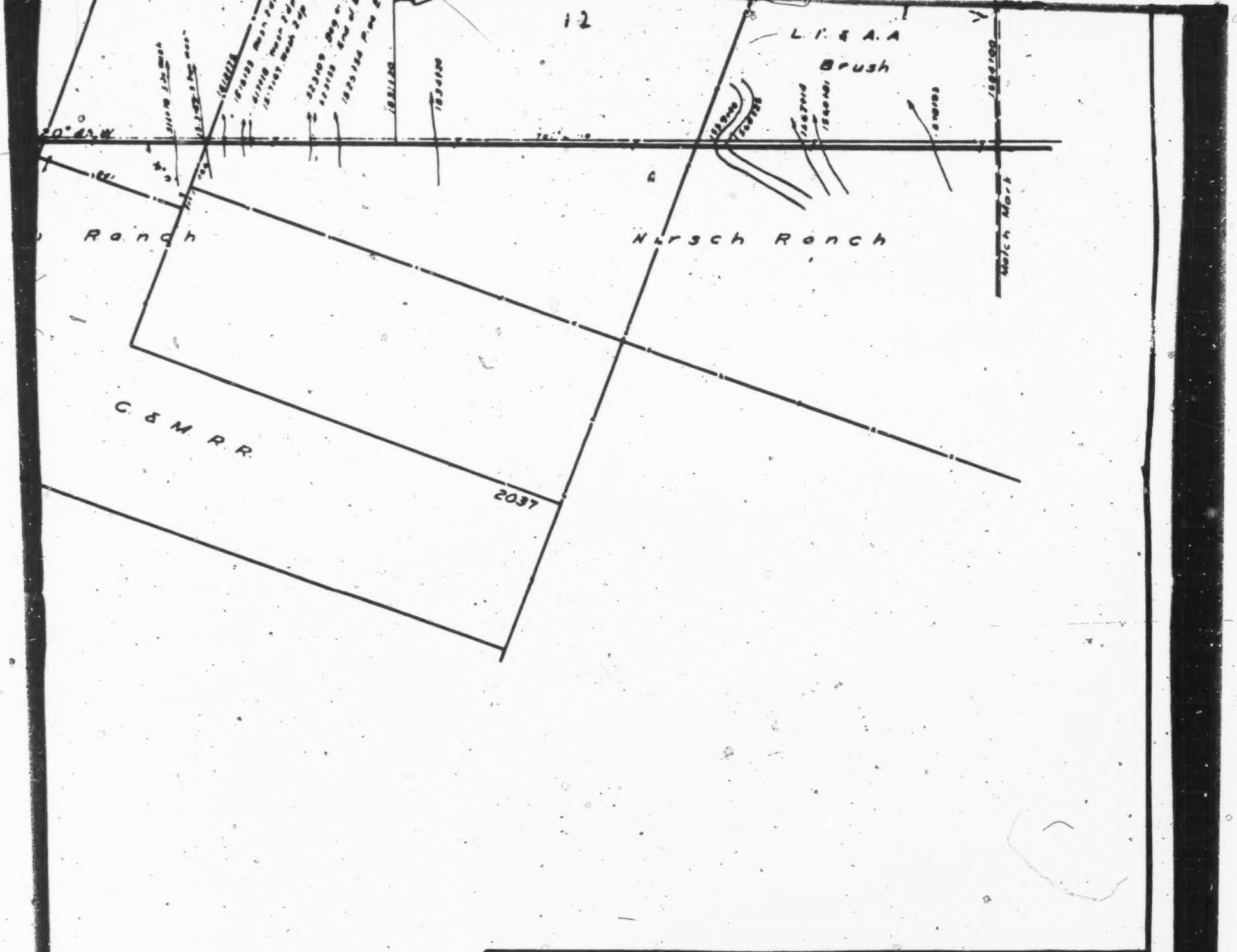

"JOSE BASQUEZ BOREGO"
Tule Pasture
N 20°48' W


B
C
O
U
39
38
37
240
1349
2038
N 20°


37
36
2033
1591
20
20
12
L. I. & A. A
Brush


N 20° 48' W
A° Bruni


Hirsch Pasture
Hirsch
Canada Creek
1949
N 20°



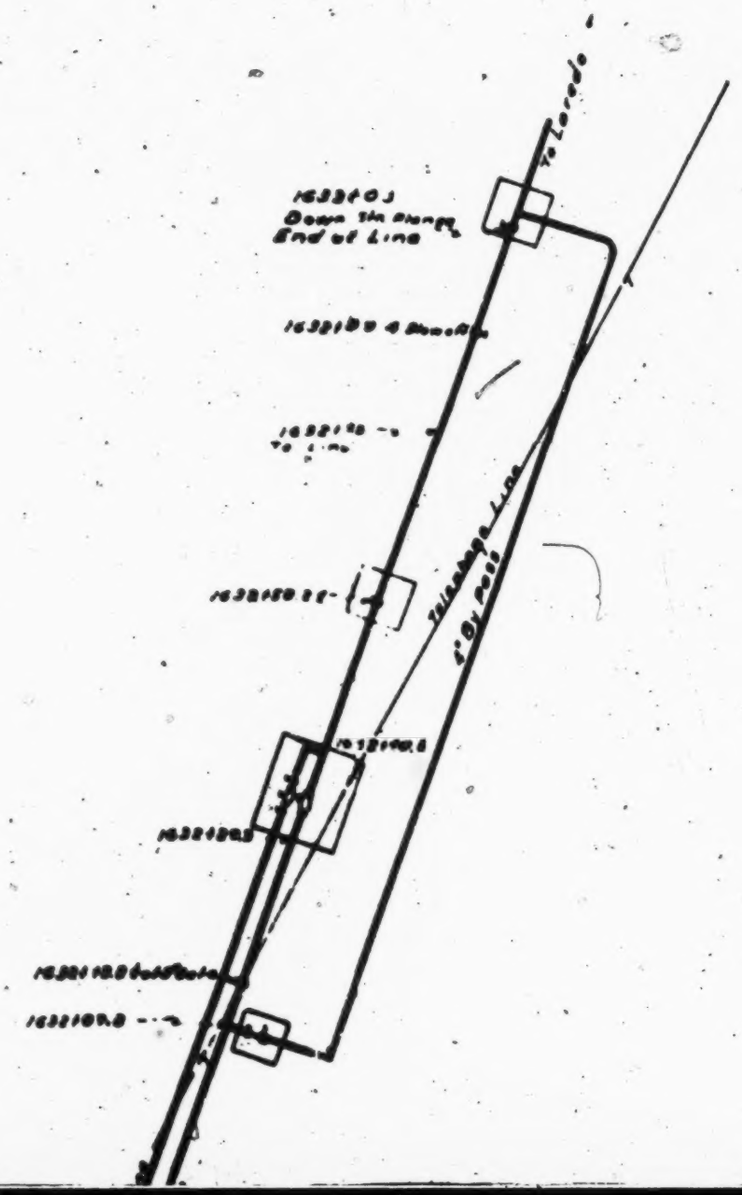
6" MAIN LINE FROM JENNINGS FIELD TO PESCADITO JUNCTION

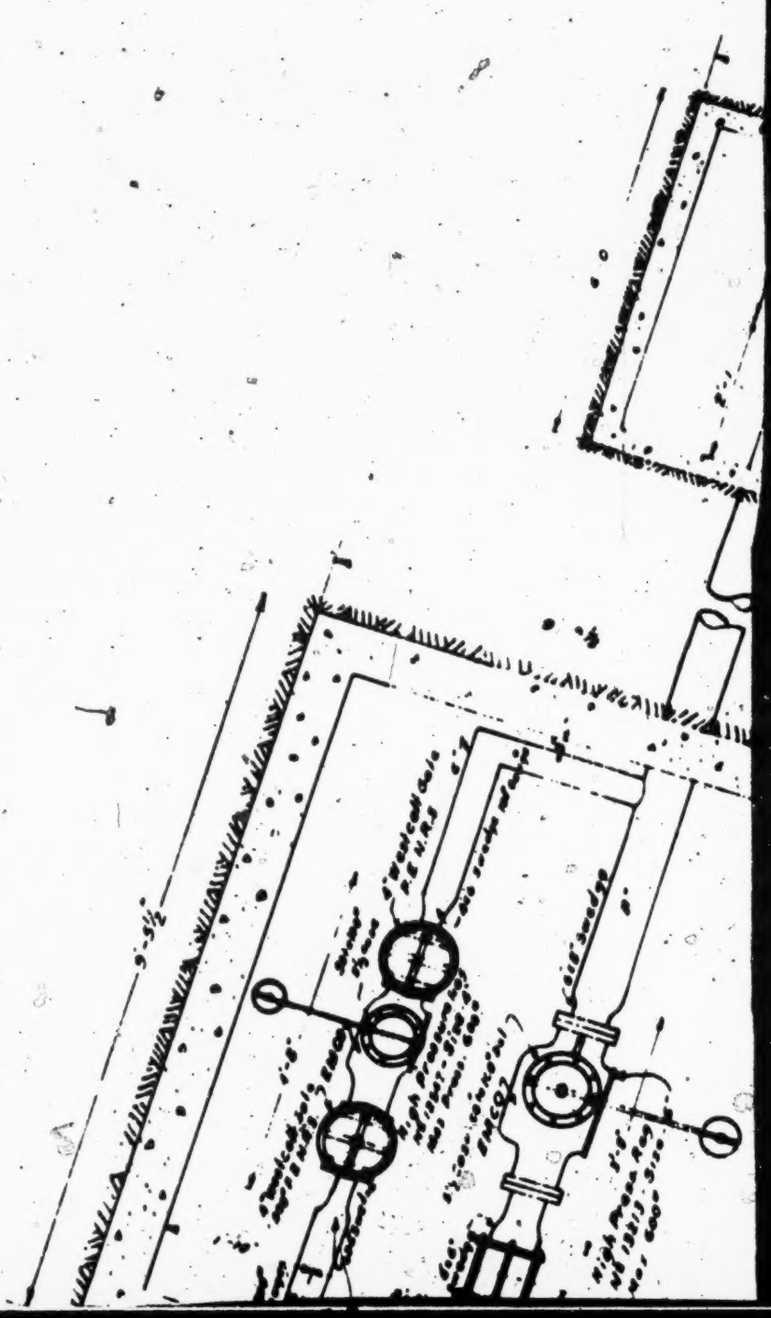
Drwg No Sheet No 5 Sheets		Dr by - C.Y. Tr by - C.Y. Chk by
Scale 1" = 1000	APPROVED BY-	Date

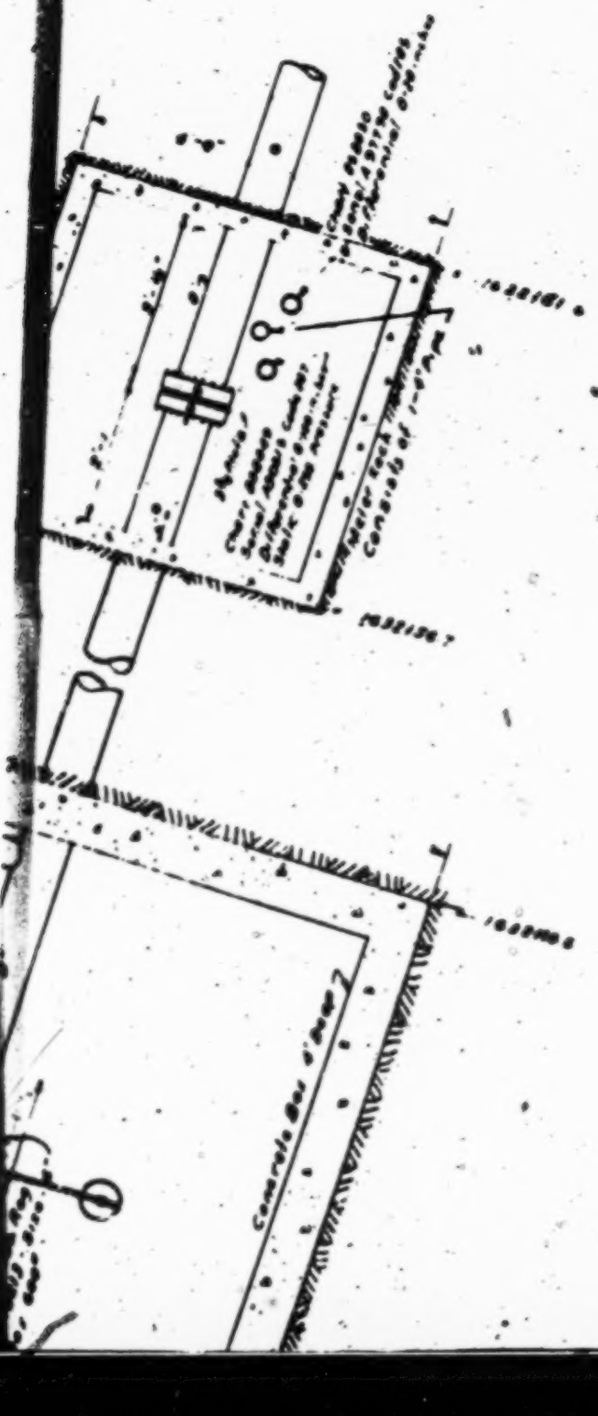
2471

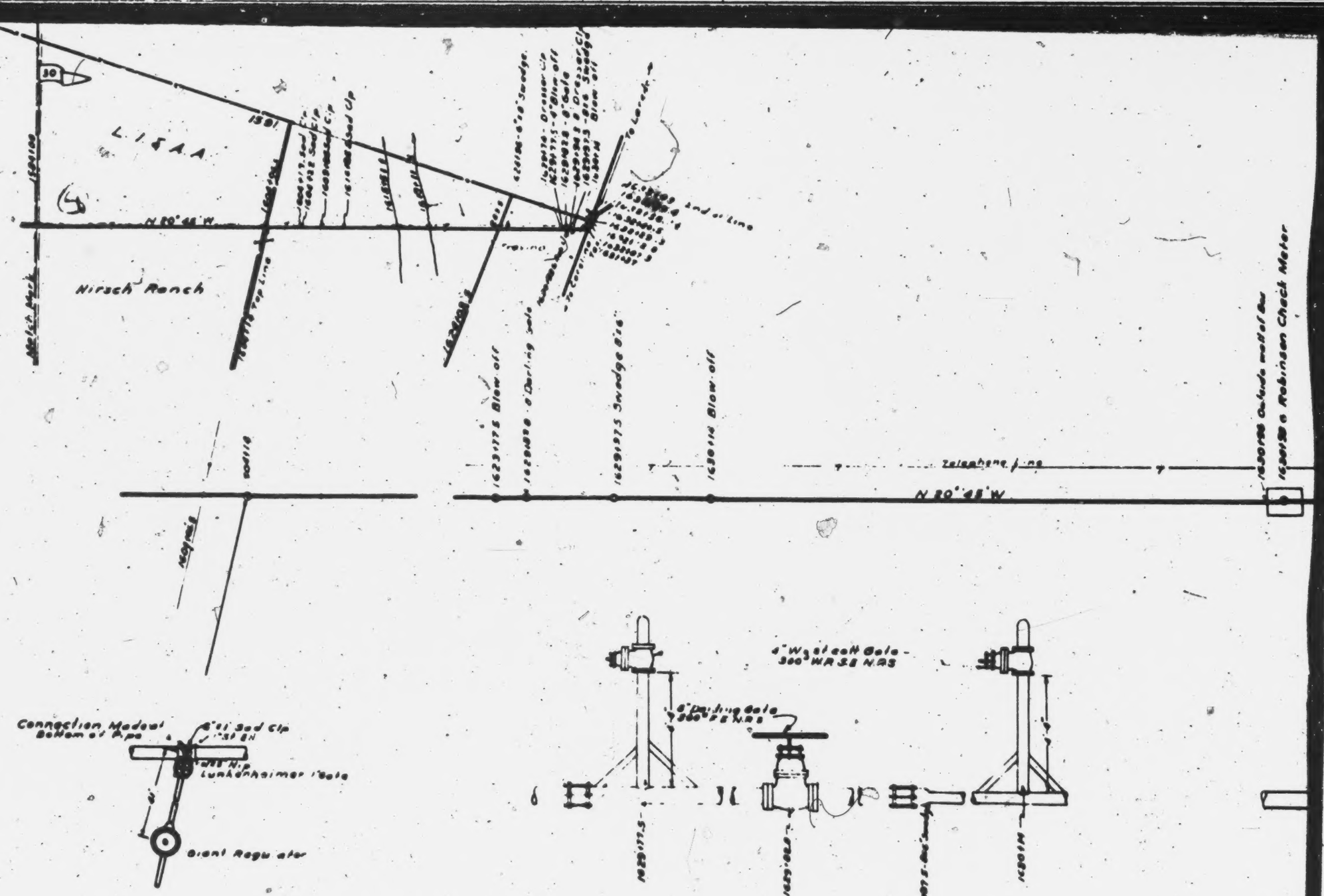
N

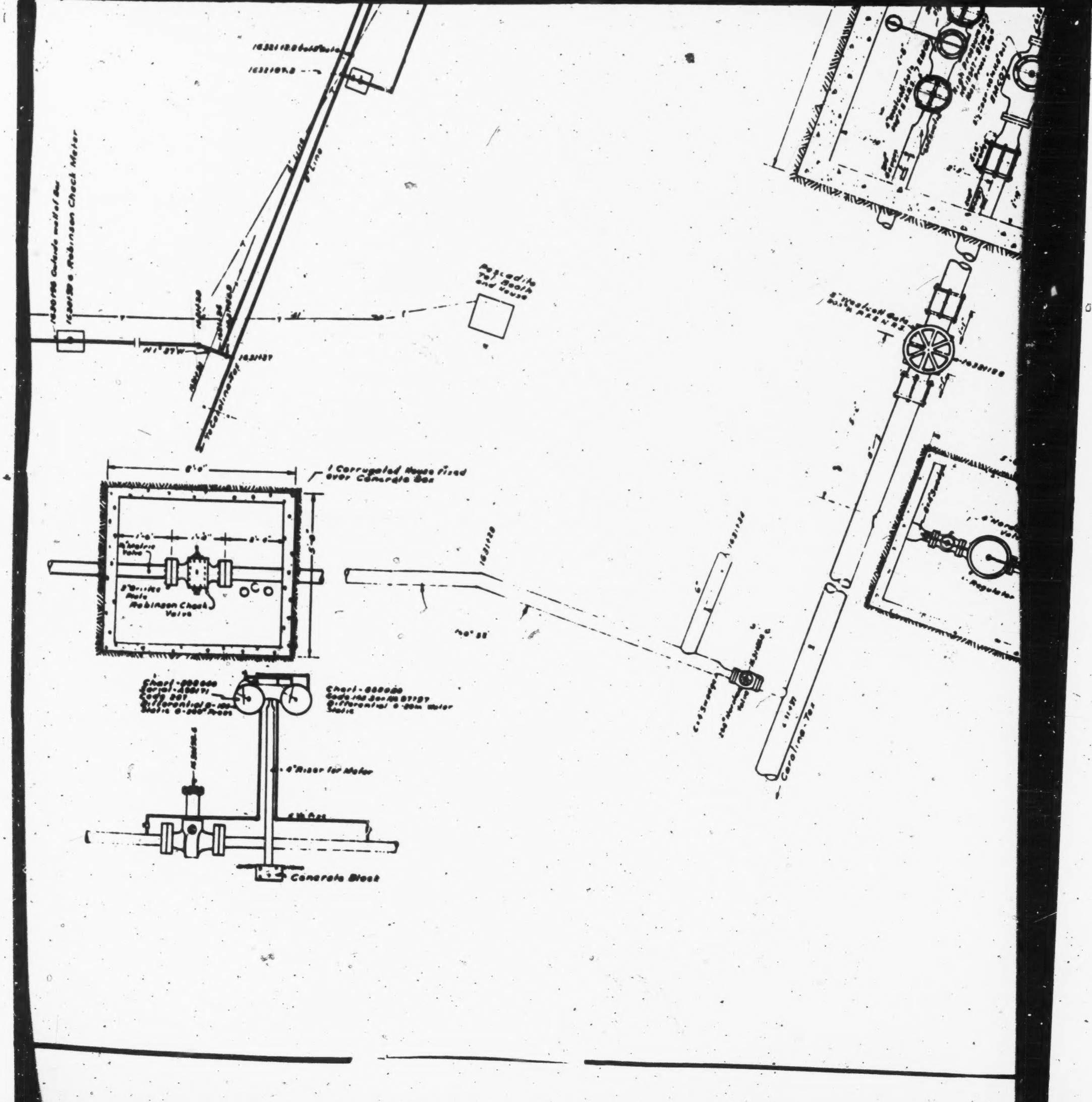
W E B B
C O U N T Y

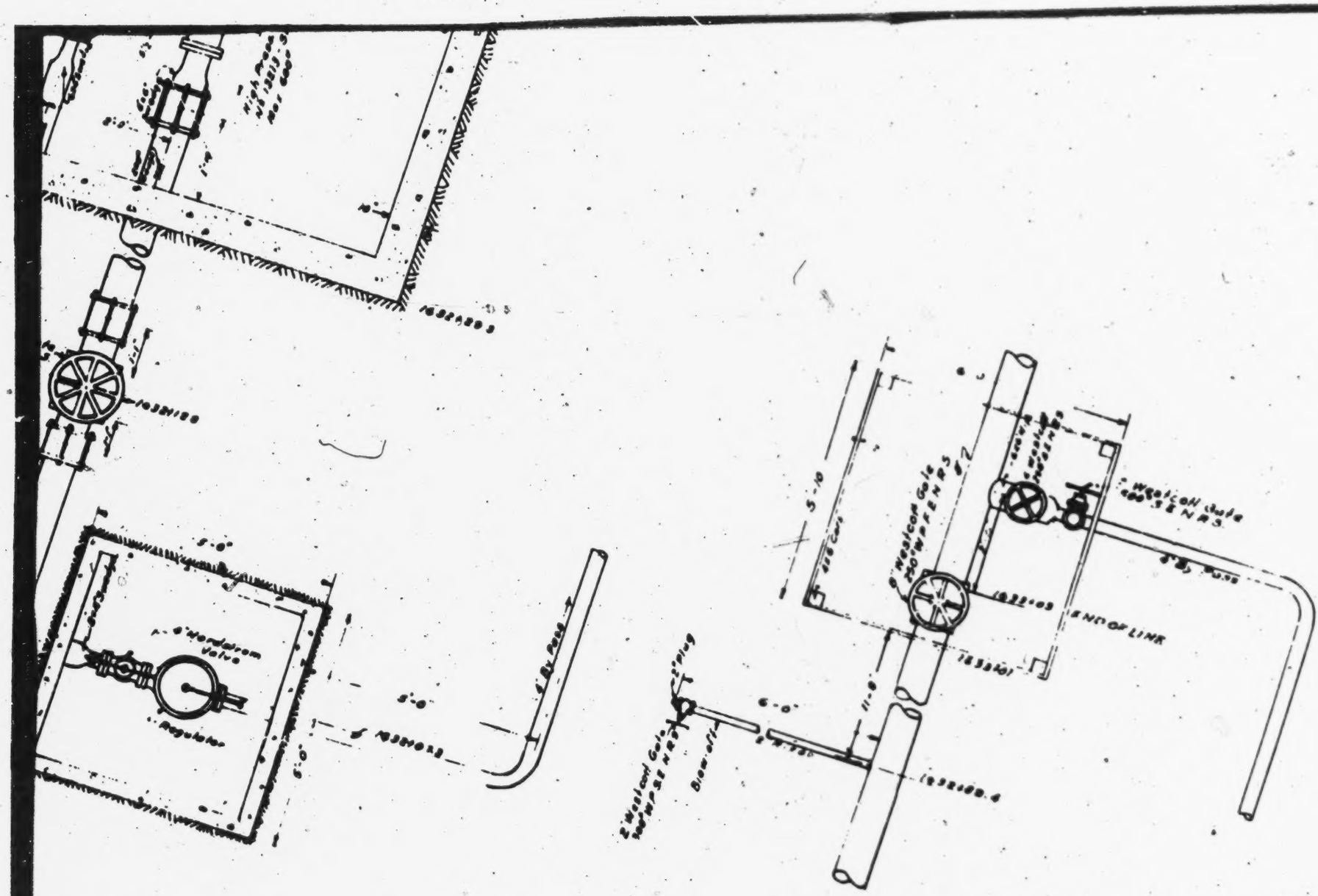

To Laredo
End of Line
Telephone Line
4"Br. pole






L I S A A
Hirsch Ranch
N 89° 48' W
Meter Hut
Head Gate
Blow off
Swedge
Blow off
Blow off
Swedge
Blow off
Swedge
Blow off
Swedge


Corrugated House fixed over Concrete Box
Concrete Block
Coralline-Tar



6" MAIN LINE FROM JENNINGS FIELD TO PESCADITO JUNCTION

Drwg No. Sheet No. 6 Sheets		Dr. by - C.Y. Tr. by - C.Y. Chk. by
Scale 1" = 1000'	APPROVED BY	Date

2472

A. G. MARKLEY

ORTIZ

TACUBA

CHICAGO

PACE

UGARTE

PHILADELPHIA

BOSTON

PIERCE

BALTIMORE

LAFAYETTE

MADISON

BURNSIDE

SHERMAN

BLAIR

JACKSON

FRANKLIN

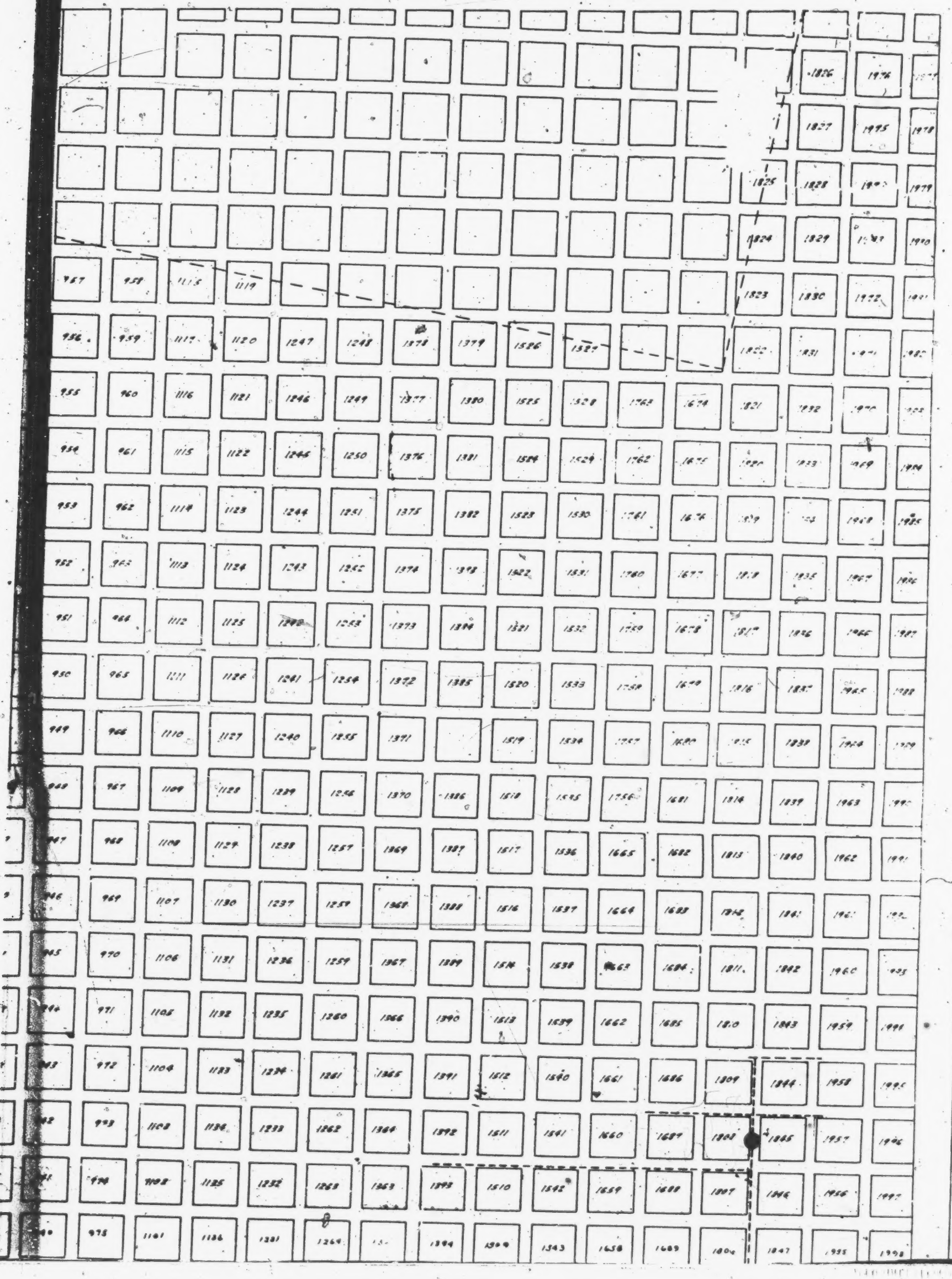
ALAMO

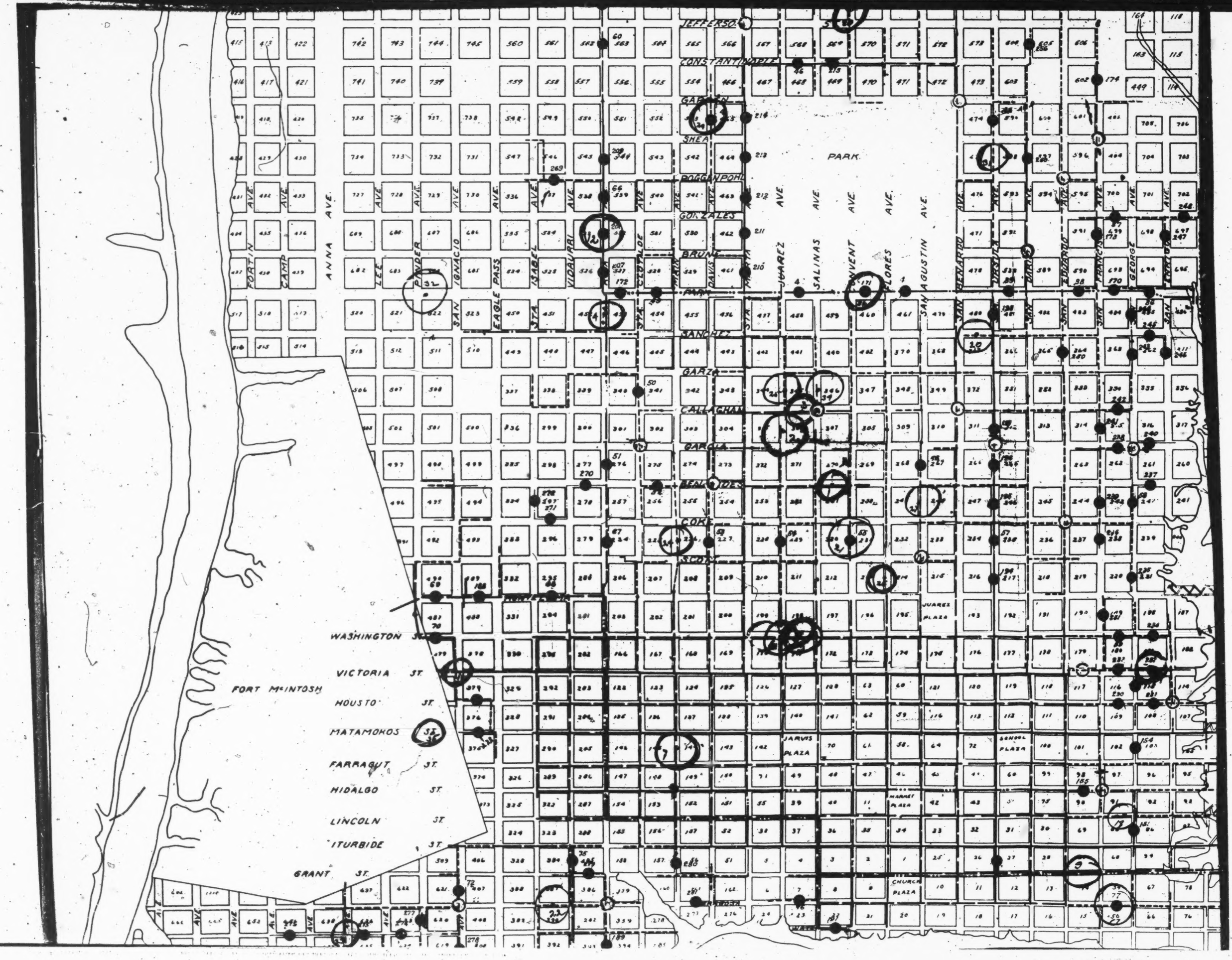
JEFFERSON

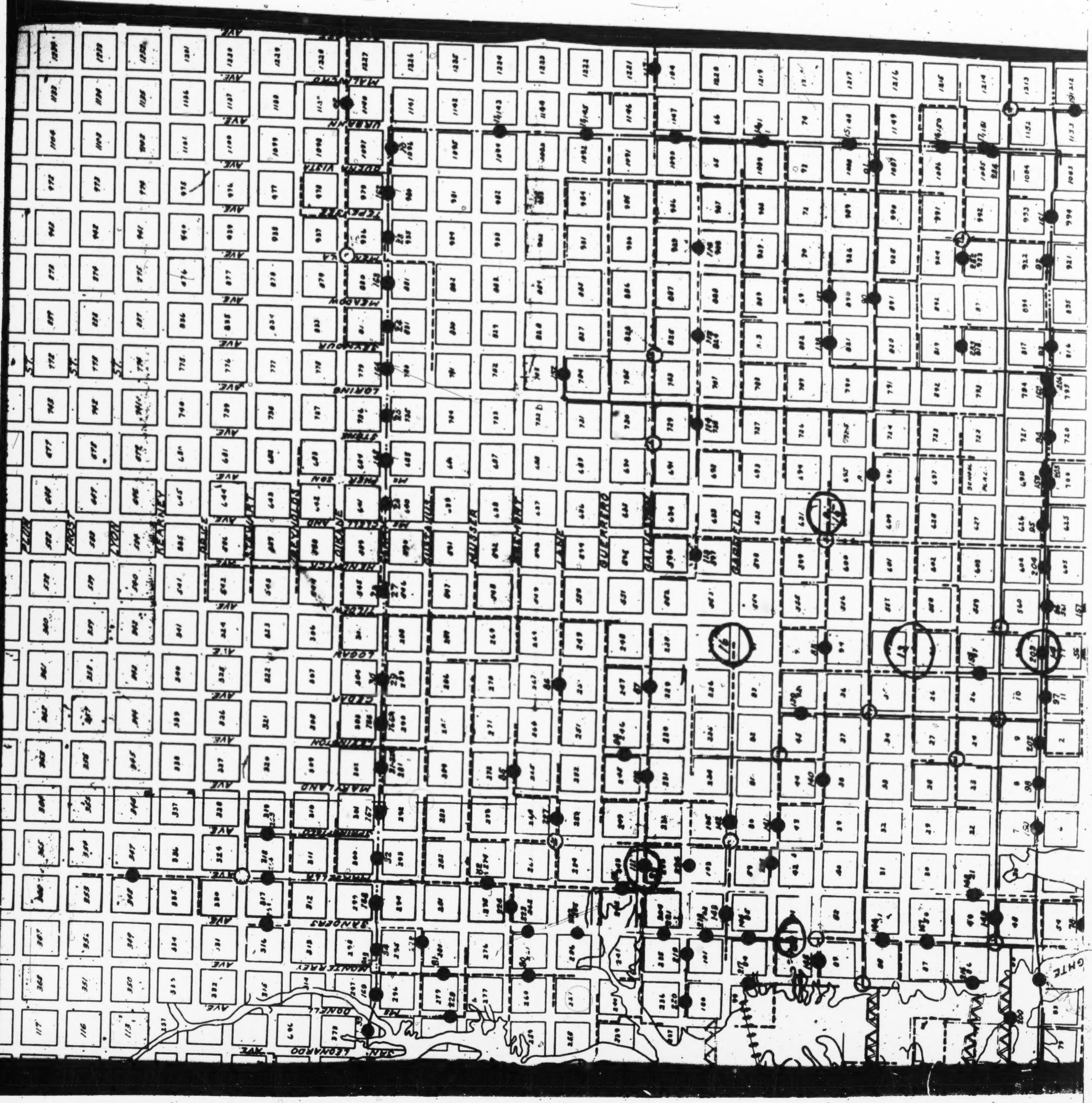
CONSTANTINOPLE

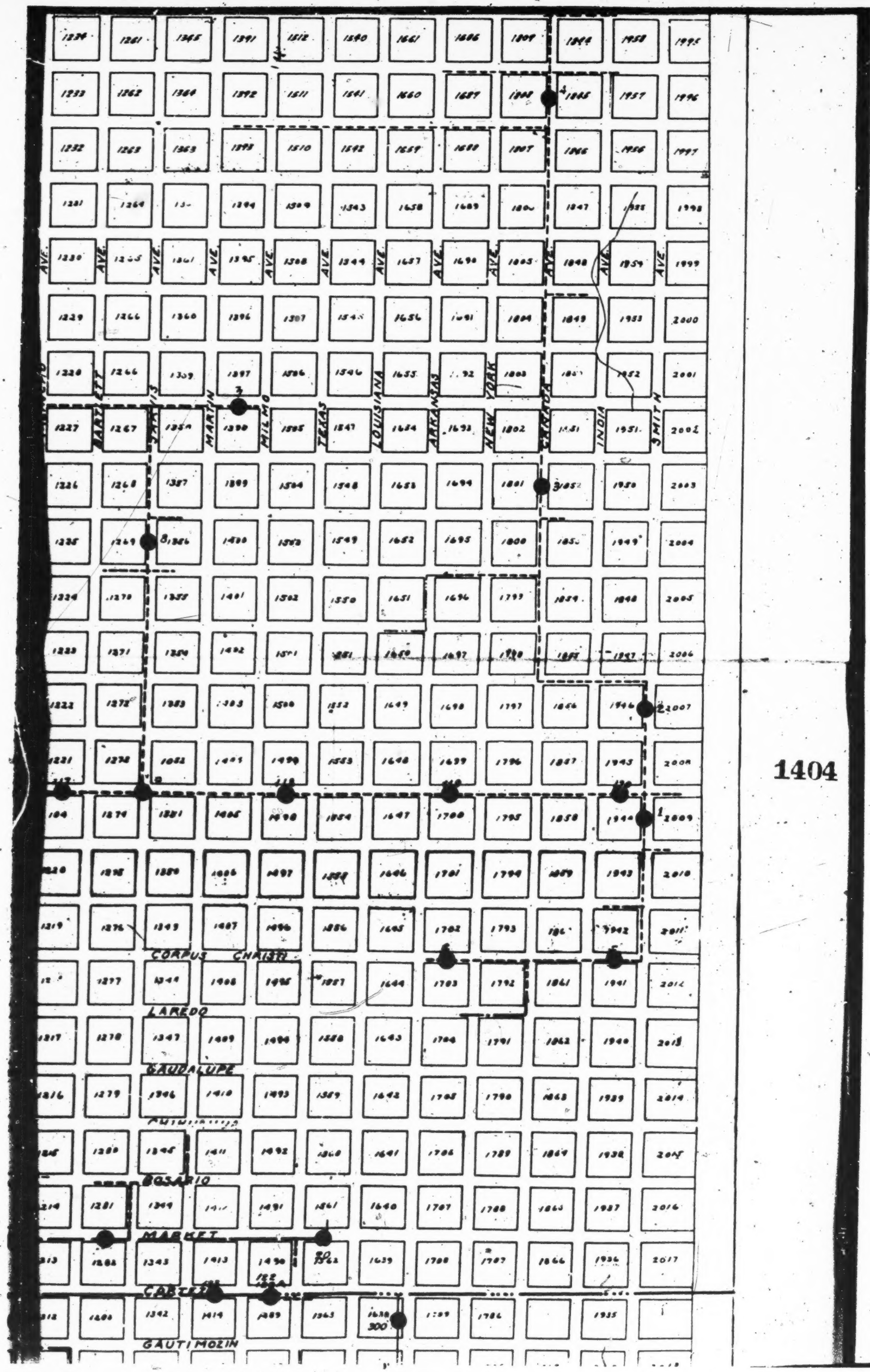
ST.

TAYLOR ST.
RYAN ST.
EISETTER ST.
BUSTAMANTE ST.
SAN CARLOS ST.
SAN PEDRO ST.
OLIVE ST.
SANDERS ST.
TRAVIS ST.
SAN JOSE ST.
MONTGOMERY ST.
ASH ST.
ELM ST.
LACOSTE ST.
PLUM ST.
FROST ST.
LYON ST.
KEARNEY ST.


1826 1974
1827 1975 1978
1825 1828 1979
1824 1829 1990
1823 1830 1972
957 958 1115 1119
956 959 1117 1120 1247 1248 1378 1379 1526 1527 1822 1831
955 960 1116 1121 1246 1249 1377 1380 1525 1528 1763 1674 1821 1832
954 961 1115 1122 1245 1250 1376 1381 1524 1529 1762 1675 1820 1833 1969 1979
953 962 1114 1123 1244 1251 1375 1382 1523 1530 1761 1676 1819 1968 1985
952 963 1113 1124 1243 1252 1374 1383 1522 1531 1760 1677 1818 1835 1967 1986
951 964 1112 1125 1242 1253 1373 1384 1521 1532 1759 1678 1817 1836 1966 1987
950 965 1111 1126 1241 1254 1372 1385 1520 1533 1758 1679 1816 1837 1965 1988
949 966 1110 1127 1240 1255 1371 1519 1534 1757 1680 1815 1838 1964 1989
948 967 1109 1128 1239 1256 1370 1386 1518 1535 1756 1681 1814 1839 1963 1990
947 968 1108 1129 1238 1257 1369 1387 1517 1536 1665 1682 1813 1840 1962 1991
946 969 1107 1130 1237 1258 1368 1388 1516 1537 1664 1683 1812 1841 1961 1992
945 970 1106 1131 1236 1259 1367 1389 1515 1538 1663 1684 1811 1842 1960 1993
944 971 1105 1132 1235 1260 1366 1390 1513 1539 1662 1685 1810 1843 1959 1994
943 972 1104 1133 1234 1261 1365 1391 1512 1540 1661 1686 1809 1844 1958 1995
942 973 1103 1134 1233 1262 1364 1392 1511 1541 1660 1687 1808 1845 1957 1996
941 974 1102 1135 1232 1263 1363 1393 1510 1542 1659 1688 1807 1846 1956 1997
940 975 1101 1136 1231 1264 1362 1394 1509 1543 1658 1689 1806 1847 1955 1998


JEFFERSON
CONSTANTINOPLE
GARDEN
SHEA
POGGANPOHL
GONZALES
BRUNE
PARK
SANCHEZ
GARZA
CALLAGHAN
GARCIA
REAL
COKE
SCOTT
WASHINGTON ST.
VICTORIA ST.
HOUSTON ST.
MATAMOROS ST.
FARRAGUT ST.
HIDALGO ST.
LINCOLN ST.
ITURBIDE ST.
GRANT ST.
FORT McINTOSH
ANNA AVE.
FORTIN AVE.
CAMP AVE.
LEE AVE.
BENDER AVE.
SAN IGNACIO AVE.
EAGLE PASS AVE.
ISABEL AVE.
VIDAURRI AVE.
CLOTILDE AVE.
MAIN AVE.
DAVIS AVE.
MARTA AVE.
JUAREZ AVE.
SALINAS AVE.
CONVENT AVE.
FLORES AVE.
SAN AGUSTIN AVE.
SAN BERNARDO AVE.
VIRGIL AVE.
SAN EDUARDO AVE.
SAN FRANCISCO AVE.
SAN GEORGE AVE.
JUAREZ PLAZA
JARVIS PLAZA
SCHOOL PLAZA
MARKET PLAZA
CHURCH PLAZA


ALAMEDA
MARIPOSA
TEPEYAC
MEADOW
ALEXANDRA
LORAINE
STRONG
ZION
MERCED
HILLSIDE
ALTA VISTA
LOGAN
CEDAR
CLINTON
MARY LAND
SANDERS
MONTE ALEY
DONELL
SAN LEONARDO
QUEENSDALE
GALVESTON
GARFIELD


AVE.
MARTIN
MILMO
TEXAS
LOUISIANA
ARKANSAS
NEW YORK
INDIA
SMITH
CORPUS CHRISTI
LAREDO
GUADALUPE
ALTAMIRANO
BOSARIO
MARKET
CABLES
GAUTIMOZIN

SAN PATRICIO AVE.
MORELOS AVE.
SAN MARCOS AVE.
MOWAY AVE.
GILBERT AVE.
WILHELM AVE.
HEADEN AVE.
EVANS AVE.
MAIN STREET
ISLAND
RIO GRANDE RIVER
INTERNATIONAL BRIDGE
PLAZA
H. GARCIA
VICENTE ST.
SAN LUIS ST.
MONTEREY ST.
SALTILLO ST.
ZACATECAS ST.
CHACOTA ST.
TINAJA ST.
PALO BLANCO ST.
THURMAN ST.
MORTON ST.
BAYARD ST.
CROSS ST.
IRELAND ST.

[fol. 3473]

CITY'S EXHIBIT "K"

LEGEND

12" GAS MAIN
8" " "
6" " "
4" " "
3" " "
2" " "
1½" " "
1" " "

ARROYO ZAGHITE

ARROYO JIJAN FARIAS

N

UNITED GAS SYSTEM
HOUSTON, TEXAS.
ENGINEERING DEPARTMENT
MAP
OF THE CITY OF
LAREDO, TEXAS.
SCALE 1"=150 V.= 416.6' MARCH 9, 1931

CARTER

GAUTIMOZIN

ALDAMA

WILLOW

CHALON

PIEDRA CHINA

GREER

MERCER

WOOSTER

MARION

GATES

MILK

STONE

CLEVELAND

BLAINE

ROSS

LIGARDE

BARRIOS

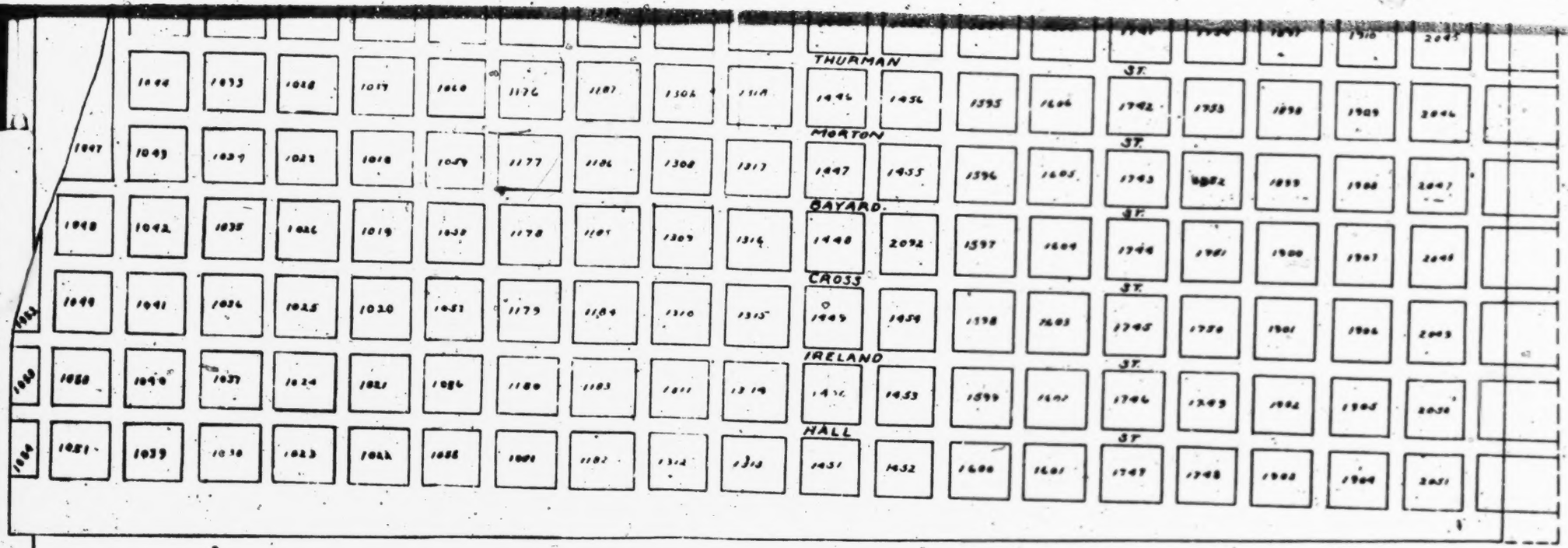
BOULANGER

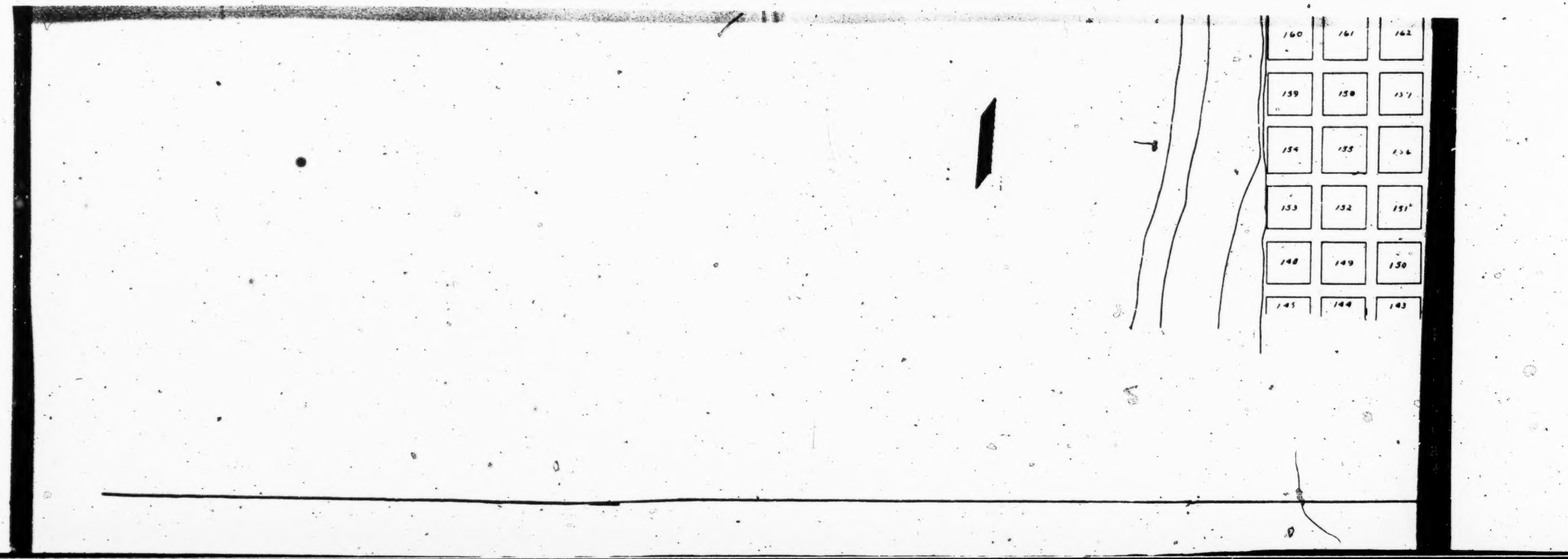
BISMARCK

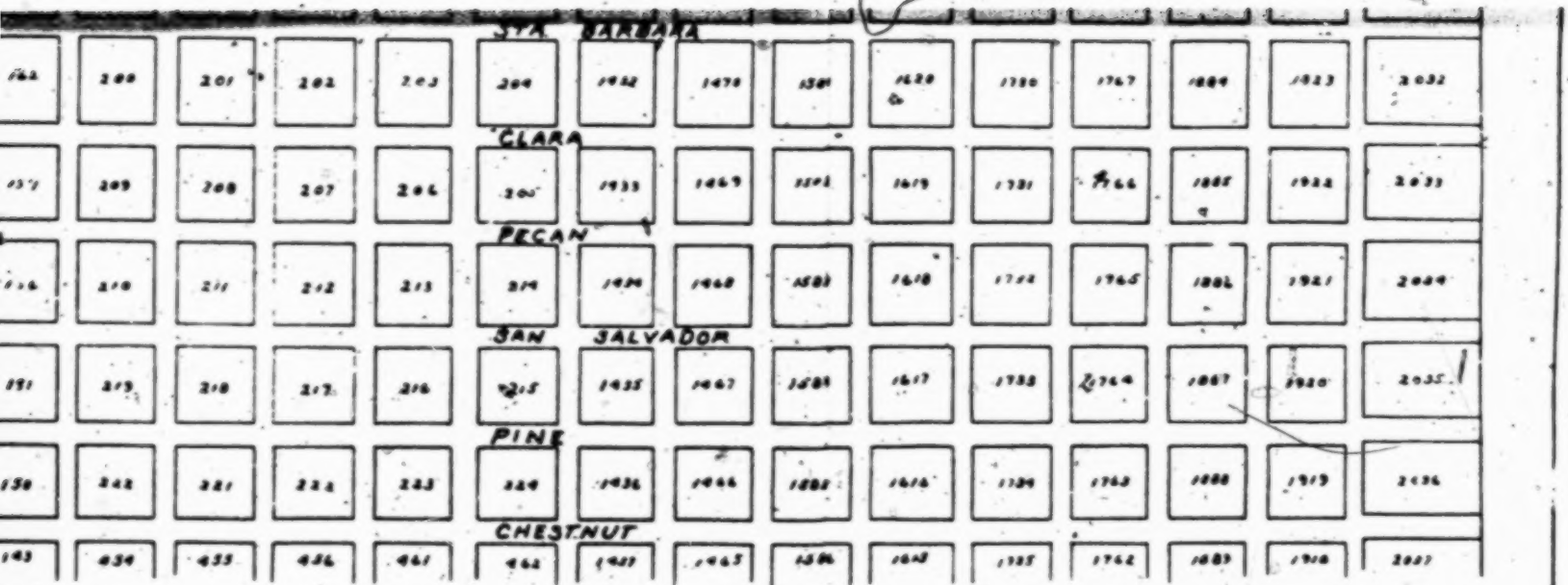
NAPOLEON

STA. BARBARA

AMELIA


THURMAN
MORTON
BAYARD
CROSS
IRELAND
HALL
ST.


160
161
162
159
158
157
154
155
156
153
152
151
148
149
150
145
144
143


STA. BARBARA
CLARA
PECAN
SAN SALVADOR
PINE
CHESTNUT

[Tabs. 3474-3476] CITY'S EXHIBIT "M"

W É B B

LAREDO

NUEVO LAREDO

4.96 MI.

12"

10"

3.835 MI.

0.80 MI.-8"

1.70 MI.-10"

1.62 MI.-8"

0.51 MI. 8"

0.47 MI. 10"

PESCADITO JUNCTION

PESCADITO CHECK METER

CHECK METER

10.50 MI.- 8"

OLD REISER FIELD

AGUILARES

AGUILARES JUNCTION

13.5 MI. - 6"

0.80 MI.-8"

MIRANDO CITY

4.63 MI.-4"

0.19 MI.-3"

CAROLINA-TEXAS FIELD

MISI REF

28.68 MI. - 6"

River

MIRA

CAROLINA-
TEXAS
FIELD

13.5 MI. - 6"

CAROLINA-TEXAS JUNCTION

TO SAN ANTONIO
12"

TO SAN ANTONIO
14"

FIELD

BRUNI
COMPRESSOR
STATION

BRUNI CAMP

OILTON

DUVAL

MISKO
REF'Y

5"
1.67 MI.

MI.-8"

0.73 MI.-4"

BRUNI

MIRANDO
CITY

4.83 MI.-4"

1.80 MI.-4"

0.80 MI.-2"

BRUNI

0.19 MI.-3"

OLD SCHOTT FIELD

8"

5.91 MI.
2"

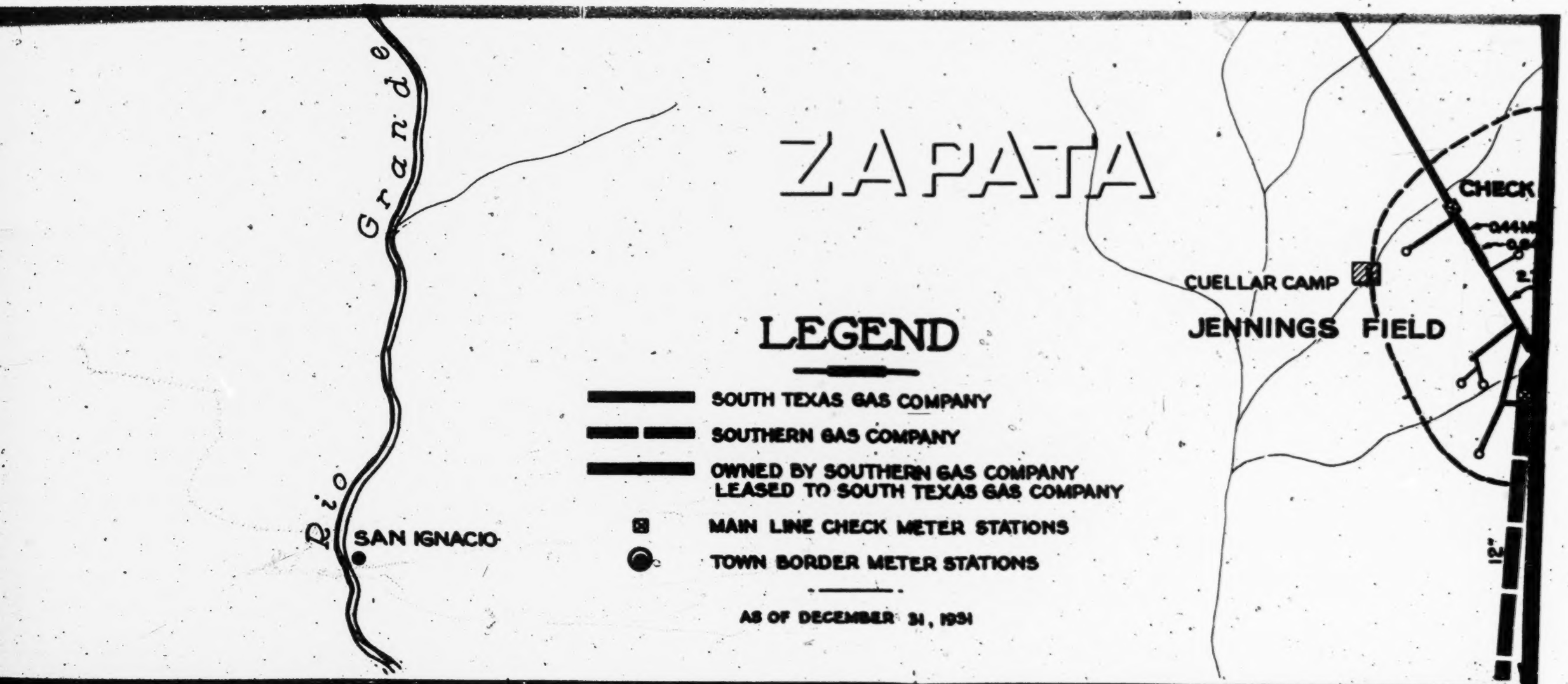
2.50 MI.-4"

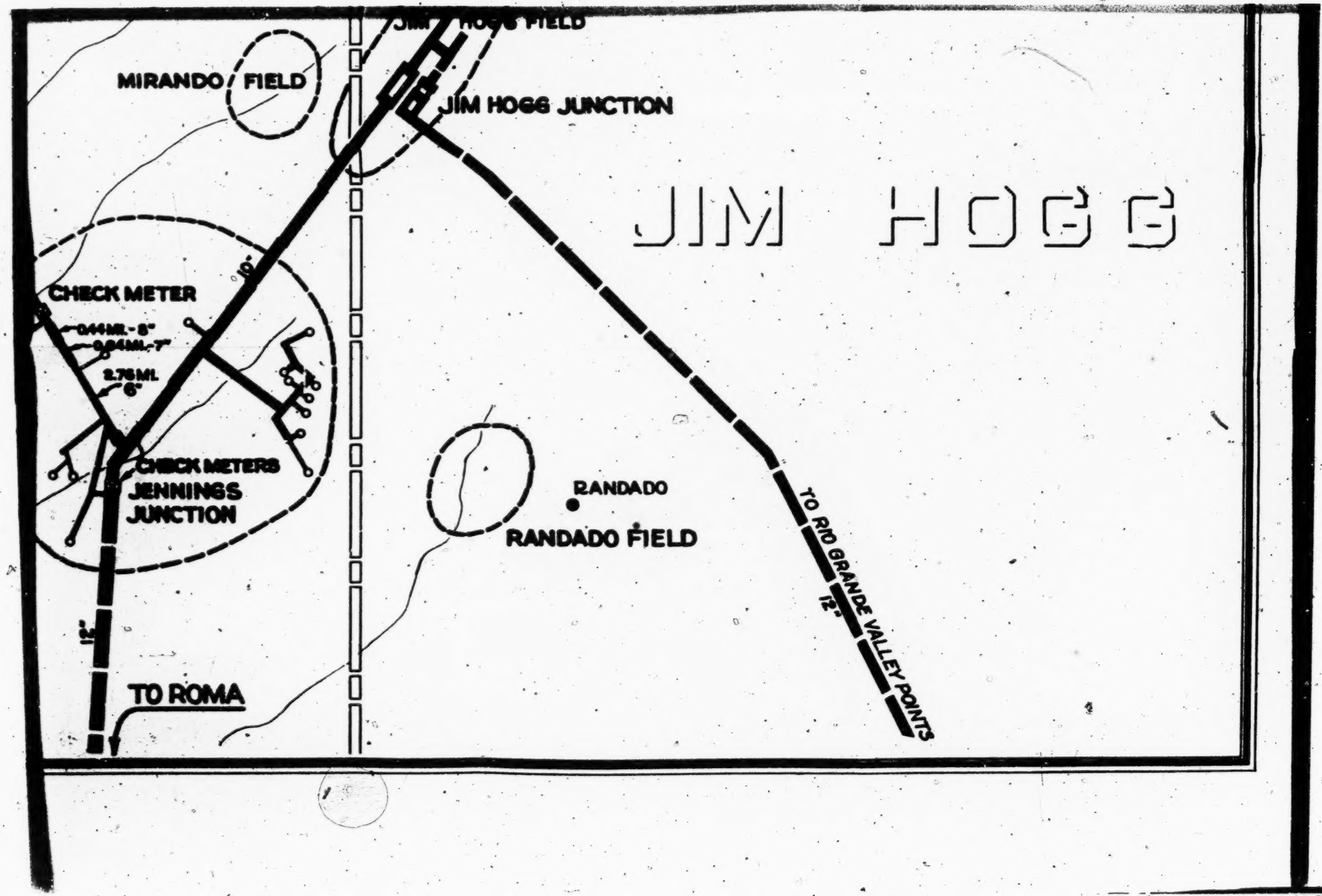
HEBBRONVILLE

JIM HOGG FIELD

MIRANDO FIELD

JIM HOGG JUNCTION


ZAPATA
Rio Grande
SAN IGNACIO
CUELLAR CAMP
JENNINGS FIELD
CHECK
12"
LEGEND
SOUTH TEXAS GAS COMPANY
SOUTHERN GAS COMPANY
OWNED BY SOUTHERN GAS COMPANY
LEASED TO SOUTH TEXAS GAS COMPANY
MAIN LINE CHECK METER STATIONS
TOWN BORDER METER STATIONS
AS OF DECEMBER 31, 1931


JIM HOGG FIELD
MIRANDO FIELD
JIM HOGG JUNCTION
JIM HOGG
CHECK METER
.044ML - 8"
.084ML - 7"
2.76ML 6"
10"
CHECK METERS
JENNINGS JUNCTION
RANDADO
RANDADO FIELD
TO RIO GRANDE VALLEY POINTS
12"
12"
TO ROMA

[fols. 2477-2479] IN SUPREME COURT OF THE UNITED STATES

ORDER EXTENDING TIME FOR DOCKETING OF CASE AND FILING OF TRANSCRIPT OF RECORD—Filed February 8, 1937

Upon consideration of the application of appellant herein for an extension of time within which to docket the above cause and to file the transcript thereof with the Clerk of [fol. 2480] this Court, and being of the opinion that good cause has been shown for the extension of such time,

It Is Ordered that the time within which appellant is required to docket the above cause, and to file the record thereof, with the Clerk of this Court be and it hereby is enlarged from February 25, 1937, to March 12, 1937.

Benjamin N. Cardozo, Associate Justice of the Supreme Court of the United States

Dated at Washington, D. C., February 8, 1937.

[fol. 2481] [File endorsement omitted.]

[fol. 2482] IN SUPREME COURT OF THE UNITED STATES.

APPELLANT'S STATEMENT OF POINTS INTENDED TO BE RELIED UPON AND OF PARTS OF THE RECORD TO BE PRINTED—Filed March 12, 1937

[fol. 2483] United Gas Public Service Company, appellant, designates as the points upon which it intends to rely its assignment of errors in its petition allowed herein January 16, 1937, as follows:

1. The Court of Civil Appeals erred in refusing to hold said order confiscatory upon the evidence of its actual operation from its effective date (January 1, 1932), the record made at the trial (March, 1934) showing, when only that testimony most favorable to the order is considered, that its enforcement will limit appellant to a net return of 1-1/10 per cent for 1932, and to a net return of 2-1/10 per cent for 1933, when computed upon the rate base ($885,000 fixed as of August, 1932) and after providing the accrual to depreciation reserve (3 per cent per annum of $885,000), which were found and entered by the Commission as part of said order.

1407

2. The Court of Civil Appeals erred in treating the presumption in favor of the validity of the Commission's order as irrebuttable by the undisputed evidence showing that, upon the Commission's own findings of property value and depreciation accrual, the enforcement of the order will [fol. 2484] clearly deny appellant just compensation for the use of its property during the two years between the effective date of the order and the time of trial.

3. The Court of Civil Appeals erred in refusing to require the trial court to determine and pass upon, and in refusing to determine and pass upon itself, appellant's claim of confiscation arising from its plea, properly presented and supported by substantial evidence, that the rate base ($885,000) used by the Commission in making said order was an arbitrary and unlawful understatement of the fair value of appellant's property used and useful to furnish gas service for Laredo.

4. Similarly, the Court of Civil Appeals erred in refusing to require the trial court to determine and pass upon, and in refusing to determine and pass upon itself, appellant's claim of confiscation arising from its plea, properly presented and supported by substantial evidence, that the figure for depreciation reserve accrual (3 per cent of $885,000) used by the Commission in making said order was grossly and unlawfully inadequate.

5. The Court of Civil Appeals erred in holding that the evidence was insufficient, as a matter of law, to show that [fol. 2485] the Commission's order was confiscatory, because such holding was made, in so far as it was based upon evidence, upon consideration of only certain portions of the testimony offered by appellees, and not by considering, weighing and passing upon, in the exercise of independent judgment as to facts and law, all of the facts pertinent to confiscation established by competent evidence.

6. The Court of Civil Appeals erred in concluding that the enforcement of the order for 1933 would leave appellant a net return of more than 7 per cent of $700,000, such conclusion being contrary to all the evidence and wholly unsupported by any evidence in the record.

7. The Court of Civil Appeals erred in giving controlling effect to calculations—first made in the Court of Civil

Appeals—purporting to show an average of gross revenues, operating expenses, and net revenues at the 75 cent rate for a period of four prior fiscal years (July 1928-July 1932), and in using such average for the purpose of predicting the effect of said final order upon appellant's revenues subject to regulation thereby, all the evidence at the trial showing that the application of said order to appellant's actual operations since January 1, 1932 will clearly result in confiscation of appellant's property, and all of [fol. 2486] the evidence further showing that the conditions affecting appellant's business during the four prior years used for said averages were greatly different from such conditions prevailing at and after the order is made effective.

8. The Court of Civil Appeals erred, in connection with such calculations, in arbitrarily eliminating therefrom large outlays for operating expenses actually and in good faith incurred in said four prior fiscal years, without any competent evidence in the record to support such elimination.

9. The Court of Civil Appeals erred in computing appellant's supposed rate of return, both for 1933 and as represented by such average revenue calculations, upon a figure of $700,000 for rate base, such $700,000 figure representing the lowest valuation estimated by any witness at the trial and being offered by an engineer witness for appellees as showing estimated reproduction cost, less depreciation, at the end of 1933, the court erroneously refusing to decide confiscation from a judicial determination of fair value made in the exercise of independent judgment applied to all competent evidence thereof.

[fol. 2487] 10. The Court of Civil Appeals erred in holding that, appellant not having put the 55 cent rate to a test, the evidence was insufficient to show confiscation, despite the fact that the record herein shows without dispute that the 75 cent rate was itself confiscatory, it yielding, upon the testimony most favorable to the order and upon the $885,000 rate base and 3 per cent depreciation reserve accrual found by the Commission, a net return of only 3 6/10 per cent for 1932 and of only 4 4/10 per cent for 1933, and despite the showing in the record that a test of said 55 cent rate, in the usual meaning of that term, was rendered impossible by the retroactive operation of the rate order and

by the stay order entered in this suit at the instance of appellees.

11. The Court of Civil Appeals erred in enforcing the retroactive refund provisions of the order in respect of appellant's completed operations of 1932 and 1933, without findings of fact—and without competent evidence as the basis for findings such as would support such action, if any findings were made—upon fair value, reasonable rates of return and depreciation reserve accrual, and net earnings before and after the enforcement of the order for said years.

[fol. 2488] 12. The Court of Civil Appeals erred in failing and refusing to give appellant that independent consideration of both the facts and the law which is essential to a proper judicial review of a rate order claimed to be confiscatory, if appellant is to be afforded the equal protection of the laws and due process of law guaranteed appellant by Section 1 of the Fourteenth Amendment to the Constitution of the United States.

13. And the said Court of Civil Appeals erred in refusing to hold said order void upon the evidence of its actual operation and effect presented in this case, which evidence showed without dispute that enforcement of the order will take appellant's property without due process of law, compel the use thereof without just compensation and deny appellant the equal protection of the laws, in violation of Section 1 of the Fourteenth Amendment to the Constitution of the United States.

Said appellant designates the following parts of the record as necessary for the consideration of these points and to be printed by the Clerk:

[fol. 2489] All of the typewritten transcript of record certified by the Clerk of the Court of Civil Appeals pursuant to appellant's præcipe, except the following:

Style	Vol.	Transcript Pages
Defendant's amended motion for new trial in the district court	3	680– 693
Order overruling motion for new trial	3	694
Appellant's assignments of error in the Court of Civil Appeals	3	698– 711

Style	Vol.	Transcript Pages
Order of Chief Justice of Court of Civil Appeals denying petition for appeal to the Supreme Court of the United States	3	836– 839
[fol. 2490] All duplicate copies of notices, etc. inserted merely for the purpose of showing acknowledgment of service, letting the first copy show all such acknowledgments		
Appellees' cross assignments of error (unless designated by appellees)	4	1062–1063

Appellant designates the remainder of said typewritten transcript, after excluding those parts set out above, for printing. Appellant does not designate for printing any part of the original record from the State Court filed herein, with the following exception:

If appellees designate for printing page 2013, S. F. Vol. IV (see appellees' counter præcipe, page 6, section 3, subsection (e)), then please print the following portions of defendant's exhibit 2 from which said page 2013 is taken:

From S. F. Vol. IV:

Page 2009, the index to defendant's exhibit 2.

[fol. 2491] Page 2014, the summary of bases of apportionment as between operations.

Page 2015 to 2030, which give the detail of the bases of apportionment applying to the first few general expense accounts covered in defendant's exhibit 2.

Dated: This 9th day of March, 1937.

Jno. P. Bullington, F. G. Coates, Counsel for Appellant.

[fols. 2492-2493] [File endorsement omitted.]

[fol. 2494] IN SUPREME COURT OF THE UNITED STATES

APPELLEES' DESIGNATION OF PARTS OF THE RECORD TO BE PRINTED—Filed March 15, 1937.

In accordance with subdivision 9 of Rule 13 of the Supreme Court of the United States, Appellees hereby desig-

nate the following parts of the record to be printed in addition to those parts designated by Appellant by instrument dated March 9th, 1937, and served upon Appellees' counsel March 10th, 1937:

[fol. 2495] I. Appellant's designation of points to be relied upon by it, Nos. 1 to 13, inclusive, as set forth in designation of such points dated March 9th, 1937, and served upon Appellees' counsel March 10th, 1937.

II. All of the portions of the record excepted by Appellant from the designation of portions to be printed on pages 8 and 9 of Appellant's said designation dated March 9th, 1937, and served upon Appellees' counsel March 10th, 1937, which excepted parts consist of Defendant's (Appellant's) amended motion for a new trial in the district court, order overruling same, its assignments of error in the Court of Civil Appeals, its assignments of error from its petition for writ of error in the Supreme Court of Texas, its motion for rehearing in the Supreme Court of Texas, the order of the Chief Justice of the Court of Civil Appeals denying Appellant leave to appeal to the Supreme Court of the United States, and Appellees' cross assignments of error Nos. 1 to 3, inclusive, in the Court of Civil Appeals.

III. All of the portions of the record designated in Appellees' counter præcipe for transcript dated March 2nd, 1937, and filed with the Clerk of the Court of Civil Appeals on the same date, with only the following exceptions and changes:

[fol. 2496] 1. It is to be noted that there is duplication between division A, subdivision 16, and division B, subdivisions 30 and 31, of Appellees' said counter præcipe. The duplication, of course, is to be eliminated and only one copy of each of the proceedings referred to is to be printed.

2. There is likewise duplication between division B, subdivision 29, of Appellees' said counter præcipe and a portion of division G, subdivision 2, of Appellant's præcipe for transcript dated January 30th, 1937, and served on Appellees' counsel February 1st, 1937, the duplicated portion of said last mentioned subdivision reading as follows: "together with acknowledgment of service upon Appellees' counsel of said petition, assignment, prayer, jurisdictional statement, order, notice and statement, and citation";

which duplication is to be eliminated and only one copy of such notice and acknowledgment to be printed.

3. On page 6, paragraph 3, subdivision (d), immediately following "(From S. F. Vol. II)," add: "Notation: Indicate that this testimony was adduced on March 28th, 1934."

4. On page 6, paragraph 3, subdivision (e), substitute in lieu of the said subdivision "(e)" the following: "Include all of Defendant's Exhibit 2 (S. F. Vol. IV) pp. 2009 to 2062."

5. On page 8, paragraph 10, subdivision (b), immediately following "on p. 1526," add the following: "Notation: Indicate that this testimony was adduced on March 27th, 1934."

[fol. 2497] 6. On page 24, paragraph 28, subdivision (b), immediately following "on p. 1715," add: "Notation: Indicate that this testimony was adduced on March 30th, 1934."

7. On page 24, add a new paragraph to be numbered "28-a," to contain the following: "The testimony was concluded and the trial of the case closed on March 30th, 1934. (See S. F. Vol. II, p. 1716.)"

8. On page 15, paragraph 14, subdivision (a), immediately following "through p. 793," add: "Notation: Indicate that this testimony was adduced on March 15th, 1934."

9. On page 13, paragraph 13, subdivision (i), add subsection 1-a: "Include Exhibit K (map) (S. F. Vol. E) p. 2473."

10. On page 13, paragraph 13, subdivision (i), add subsection 3: "Include Exhibit M (map) (S. F. Vol. E) p. 2476. Notation: Replica of map M to be reduced proportionately in size but reproduced in the colorings of the original.

11. On page 15, paragraph 13, subdivision (l), add subsection 5-a: "Include Defendant's Exhibit No. 9 (S. F. Vol. C) pp. 2138-2142; also Defendant's Exhibit No. 9 (2) (S. F. Vol. C) pp. 2142-2147."

12. On page 15, paragraph 13, subdivision (l), add subsection 7-a: "Include Plaintiffs' Exhibit C (S. F. Vol. D) p. 2426."

[fol. 2498] 13. On page 18, paragraph 16, subdivision (b), substitute in lieu of said subdivision (b) the following: "Print only that portion of Plaintiffs' Exhibit 9 (appraisal)

(S. F. Vol. III) pp. 1800 to 1803, both inclusive; p. 1806 and p. 1865.

Notation: The remainder of this exhibit consists of detailed inventory sheets, showing extension of unit prices, etc. upon the individual items of each property account. Indicate the pages omitted."

14. On page 18, paragraph 16, subdivision (c), substitute in lieu of this subdivision (c) the following: "Include: Beginning at the bottom of p. 1110 and continuing through the third answer on p. 1118; beginning with "Then the total" on p. 1171 and continuing through p. 1199.

IV. Appellant's præcipe to the Clerk of the Court of Civil Appeals for contents of transcript, dated January 30th, 1937, and served upon Appellees' counsel February 1st, 1937.

V. Appellant's præcipe for transcript to the Clerk of the Supreme Court of Texas, dated January 30th, 1937, and served upon Appellees' counsel February 1st, 1937.

VI. Appellant's supplemental præcipe to the Clerk of the Court of Civil Appeals and notice to Appellee's counsel, dated February 15th, 1937, and served upon Appellees' counsel February 17th, 1937, supplementing Appellant's [fol. 2499] præcipe of January 30th, 1937, and requesting the Clerk of the Supreme Court of the United States, before printing page 27 of Appellant's statement as to jurisdiction, to change the reference to paragraphs 33, 34, motion for rehearing, C. C. A., so as to read paragraph 35 of said motion.

VII. Appellees' præcipe for transcript, dated and filed with the Clerk of the Court of Civil Appeals March 2nd, 1937.

VIII. Stipulation between counsel for Appellant and Appellees dated March 5th, 1937, agreeing that the entire original record and transcript of certain portions thereof prepared by Appellant and certified by the Clerk of the Court of Civil Appeals might be transmitted to the Clerk of the Supreme Court of the United States in lieu of the transcript prescribed by the rules.

IX. Order of the Chief Justice of the Court of Civil Appeals, March 5th, 1937, approving the stipulation referred

to in Paragraph VIII above, and ordering that the original record be transmitted to the Clerk of the Supreme Court of the United States as provided in said stipulation.

X. All portions referred to in Divisions D, E, F, and G of Appellant's præcipe for transcript to Clerk of the Court of Civil Appeals, dated January 30th, 1937, and served upon Appellees' counsel February 1st, 1937, which have not already been designated by either Appellant or [fol. 2500] Appellees to be printed.

Dated the 12th day of March, 1937.

Edw. H. Lange, Alfred M. Scott, Counsel for Appellees.

[fol. 2501] [Endorsed:] File No. —. Supreme Court, U. S., October Term, 1936. Term No. 807. United Gas Public Service Co., Appellant, vs. State of Texas et al. Designation by appellees of additional parts of record to be printed. Filed Mar. 15, 1937.

Endorsed on cover: File No. 41,347. Texas Court of Civil Appeals for the Third Supreme Judicial District. Term No. 13. United Gas Public Service Company, appellant, vs. State of Texas, Mrs. Miriam A. Ferguson, former Governor of Texas, et al. Filed March 12, 1937. Term No. 13, O. T., 1937.